REPORT OF THE ADVISORY COMMITTEE APPOINTED TO PROPOSE REFORMS ON MUSLIM PERSONAL LAWS IN SRI LANKA

MUSLIM MARRIAGE AND DIVORCE

16th June, 2021

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PREFACE

The Minister of Justice Hon. MUM Ali Sabry, President's Counsel, with the objective of improving the efficiency and efficacy of the legal administration of Sri Lanka, initiated a series of positive and proactive measures. In pursuance of the same, the Hon. Minister, by his letter dated 31.12.2020, appointed a 10 member Advisory Committee on Muslim Law Reforms, to identify and advise him on areas of the Muslim Personal Laws in Sri Lanka, which requires reform.

I, on behalf of the Committee, express my gratitude to the Hon Minister, firstly for our appointment and secondly for the guidance given, in the form of Terms of Reference in line with the Cabinet decision and the support afforded to the Committee, to complete the challenging task of reforming the Muslim Marriage and Divorce Law.

At the preliminary meeting, the Hon. Minister apprised that, by the time this Committee was appointed, discussions pertaining to the Muslim Marriage and Divorce law were already on going in the Cabinet of Ministers. The Hon. Minister, later apprised further, that the Cabinet of Ministers had already decided on a few aspects with regards the Muslim Marriage and Divorce Law. As a result, this Committee neither deliberated nor will advise the Hon. Minister with regards to such aspects already decided.

Even though the task was challenging, the unity and the teamwork of all the members of the Committee immensely contributed to concluding this report within a very short period of time. The number of meetings this Committee had, amounting to 38, within a span of 4 Months and 25 days, will bear testimony to the commitment, dedication and hard work of all the members. I take this opportunity to profoundly thank all the members for their cooperation and priceless intellectual contribution.

In addition to reforms proposed to the Muslim Marriage and Divorce Law, this Committee has, in this report, placed a few other recommendations for the kind consideration of the Hon. Minister and/or other relevant authorities. I, on behalf of the Committee, very humbly request the Hon. Minister to take all positive measures to address the said recommendations, as well.

Shabry Haleemdeen
Attorney at Law
Chairman of the Committee

16 June 2021

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1. INTRODUCTION

The Minister of Justice, Hon. MUM Ali Sabry, President's Counsel, by his letters of appointment dated 31.12.2020 appointed the instant Advisory Committee on Muslim Law Reforms, with the Terms of Reference to carry out a study to identify areas of the Muslim Personal Laws in Sri Lanka, which requires reforms. Whilst Shabry Haleemdeen, Attorney at Law was appointed as the Chairman, SMM Yaseen, Attorney at Law, MAM Hakeem, Attorney at Law, Safana Gul Begum, Attorney at Law, Ermiza Tegal, Attorney at Law, Rushdhi Habeeb, Attorney at Law, Naamiq Nafath, Attorney at Law, ABM Ashraf, Sheik M Arkam Nooramith and Sheik Muiz Bukhary were appointed as members of the said Committee. Mr. Naamiq Nafath served also as the convener of the Committee.

A preliminary meeting was held on 21.01.2021, with the Hon. Minister of Justice at the Ministry of Justice. The Hon. Minister apprised the Committee that, at the request of the Cabinet of Ministers, a Cabinet Paper dated 11.11.2020 had already been tabled with regards matters pertaining to the Muslim Marriage and Divorce Act No. 13 of 1951 (hereinafter referred to as the MMDA). A copy of the said Cabinet paper was made available to the Committee for its information and future action. In view of the fact that matters were already before the Cabinet of Ministers, the Hon. Minister requested that a report with proposed reforms to the MMDA be forwarded, at the earliest. Accordingly, this report pertaining only to MMDA is forwarded, and further report/s with proposals for reforms pertaining to the other Muslim Personal laws will be forwarded later.

At the aforesaid preliminary meeting with the Hon. Minster, the Committee was also apprised that the Cabinet had already deliberated and decided on matters such as age of marriage to be 18 for both parties, for the consent of the bride for the marriage to be mandatory, to enable the bride to sign the Marriage Register etc., with a view to align the MMDA with the general law of the Country. As such, the Committee did not subject the said matters to any discussion or deliberation nor the Committee will advise the Minister on the said matters already decided.

marriages of Muslim males and to give due consideration to the report of the Cabinet Sub-Committee on legislation with regard to the age limit of Muslim marriages. A copy of the said Cabinet decision was made available to the Committee for its information and future action[2]. Further, this Committee also took note of the fact that discussions and deliberations are made for the establishment of a 'Family Court System' in Sri Lanka.

In the said backdrop, the Hon. Minister sought the Committee's advice on the reforms and/or amendments required to be brought in, to integrate and administer the existing Muslim Marriages and Divorce system through the mainstream Judicial system, whilst retaining the other substantive provisions of the MMDA.

With the aforesaid development, the Committee whilst wrapping up its discussions and deliberations on the original mandate to advice on reforms and/or amendments to be brought in, within the 'Quazi system', concentrated on the reforms and/or amendments required to be brought in, to integrate and administer the existing Muslim Marriages and Divorce system through the mainstream Judicial system. Accordingly, the Committee discussed and deliberated on integrating and administering the reformed and/or amended MMDA through a Court exercising matrimonial jurisdiction or a Family Court to be established.

3. STRUCTURE OF THIS REPORT

Till the Committee was appraised on 29.04.2021, of the Cabinet decision to abolish the Quazi system, the Committee, based on its original mandate to propose reforms and/or amendments to the MMDA to be administered through the Quazi system, had carried out extensive discussions and deliberations and had decided on many a matters, on the said line. The Committee, in fact, by such time had already drafted an Amended MMDA incorporating the said decided reforms and/or amendments. In the said backdrop, the Committee wishes to include the said reforms and/or amendments proposed to the Quazi system, as well as the said drafted Amended MMDA, in this report.

Accordingly, this report will consist of two parts:

PART I shall consist of the reforms and/or amendments to the <u>MMDA to be administered through the Quazi system</u> itself. This consists of;

[2] A copy of which is annexed hereto as appendix 1.

a. Amendments to substantive law and related procedural provisions of the MMDA.

b. Amendments to the Quazi system (Whilst retaining the Quazi system for the administration of the Muslim Marriage and Divorce).

At the end of the proposed reforms and/or amendments to the substantive law, the schedules will be laid down. The relevant forms will be laid down after the proposed amendments to the Quazi system and the drafted Amended MMDA (to be administered through Quazi system) will be laid down at the end of Part I.

It is to be noted that the deliberations in Part II of this report, resulted in few changes and/or refinement of positions taken in Part I. As such any differences in the positions between Part I and Part II must be read with the aforesaid in mind.

PART II in view of the Cabinet of Ministers' decision to abolish the Quazi system, as aforesaid, and in order to facilitate the integration of the Muslim Marriage and Divorce system into the main stream Judicial system, the Committee proposes that the Muslim Marriage and Divorce system be administered through the Court that exercises matrimonial jurisdiction, which is the District Court or a Family Court to be established.

As the scheme of the MMDA would require significant reform and/or amendment to accommodate the said integration and administration, the committee is inclined on advising that the MMDA be repealed and replaced with a new Muslim Marriage and Divorce Act.

Accordingly, this Part will consist of provisions relating to Muslim Marriage and Divorce and other matters connected thereto, to be administered through the District Court or a Family Court, whilst retaining the substantial law pertaining to Muslim Marriage and Divorce, other than the matters the Cabinet has already decided to amend or abolish.

At the end of Part II, the new draft proposed Muslim Marriage and Divorce Act including the relevant schedules and the forms, to be administered through the District Court, will be laid down.

In any event, this Committee wishes to advise the Hon. Minister, if possible, to convince the Cabinet of Ministers to retain the Quazi system effecting adequate reforms and/or amendments which would arrest the mischiefs in the system and be in par with the General Law.

PART I

However, on the question as to whether the said role can be optional, two different positions were expressed by the members of the Committee.

Position 1:

The requirement of the consent and signature of the Wali, for a bride to enter into marriage and the reference to Wali in the Marriage Register be removed altogether from the MMDA.

This position is proposed by members Safana Gul Begum and Ermiza Tegal, for the reason that an adult woman is capable of deciding for herself, whether the entry into the marriage is in her best interest or otherwise and that the law should take cognizance of the same. This position is understood not to be contrary to accepted Islamic jurisprudence and will also ensure that Article 12(1) and (2) of the Constitution is upheld with regard to Muslim women, in Sri Lanka.

Position 2:

The requirement of the consent and signature of the Wali, for a bride to enter into marriage and the reference to Wali in the Marriage Register is made optional, at the instance of the Bride.

Chairman, Shabry Haleemdeen and the members SMM Yaseen, MAM Hakeem, ABM Ashraf, Sheik M Arkam Nooramith, Sheik Muiz Buhary and Naamiq Nafath subscribed to the said position on the basis that the same is recognized by one of the accepted schools of thought on Islamic jurisprudence with regards guardianship. In the event the Bride so desires, she will have the option of getting the Wali to sign the Marriage Register and have the guardian involved in the marriage process.

Depending on whether position 1 or position 2 above, is opted, Sections 18(1) (b), 19(1)(b), 25 and 26 of the MMDA with regards the role of the Wali be amended, appropriately.

In view of the said two different positions the relevant Form will have reference to Wali as well. Depending on which position is adopted the said reference to Wali will either be retained or removed.

7 Pre-Nuptial Agreement or Marriage contract

A prenuptial agreement or marriage contract, as commonly known, is a contract between the parties to the marriage, entered into prior to marriage, which enables them to select and control many of the legal rights they acquire upon marriage. When such contract is made, the provisions of the said contract will prevail over the default matrimonial or other laws, relating to matters specified in the contract that would otherwise apply in the event of divorce or death. When agreed-upon, the said terms provide certainty and clarity to their marital rights.

Taking into consideration the positive factors in providing for such contract, it was unanimously agreed that such contracts be recognized in the law of the MMDA and new provision be introduced into the MMDA to enable the parties to incorporate such contract as part of the marriage.

8. Dowry, Kaikuli and Mahr (financial and property transactions at the time of marriage)

During the discussions and deliberations on matters pertaining to Dowry, *Kaikuli and Mahr* it was observed that Dowry in particular, is a serious social problem causing undue pressure on families of the Bride. However, the said concept of Dowry has not been dealt with in the present MMDA. It was also observed that the said matter of Dowry is one which needs to be addressed not only with law reforms but also by creating social awareness.

The Committee recognizes the importance of introducing provisions for the recovery of property, movable or immovable, transacted before and/or at the time of the marriage and/or soon thereafter if the same amounts to *Kaikuli, dowry or Mahr,* at the dissolution of the marriage. In the said premise the Committee advises that provisions also be made to record such transactions in the Marriage Register or such other list be appended to the said Marriage Register.

It is observed that the terms 'dowry' and 'Mahr' are not defined in the MMDA. Accordingly, the Committee advises that the terms 'dowry' and 'Mahr' be defined in Section 97. It is further advised that Section 47 and 65 of the MMDA be amended appropriately, to ensure an effective procedure for recovery.

9 Types of Divorces and Nullity of Marriage

The Committee, taking into consideration the types of divorces available in Islamic jurisprudence and in order to ensure that the procedure for divorce is equal to both genders, in terms of the burden of proof and process, unanimously proposes that the following types of divorces be recognized by the MMDA instead of the ones provided for in the MMDA. Accordingly, the committee advises that the following types of divorces be introduced to the MMDA:

a. **Divorce by mutual consent**

Both parties agree and consent to divorce. Reasons for the divorce need not be given. An order for divorce will be entered and such order will not be subjected to an Appeal.

b. **Divorce without consent of the other and without disclosing any matrimonial fault**

One party can apply for divorce without the consent of the other and without disclosing any matrimonial fault. In view of the fact that the party initiating is advantaged as no matrimonial fault has to be specified and as it could adversely affect the other party, the Committee proposes that compensation which is just and equitable, in the circumstances, be ordered to be paid by the party initiating the divorce to the other. In addition, Mata'a (hereinafter morefully specified), if any, and/or maintenance to the children, if any, as the case may be, too be ordered prior to the dissolution of the marriage. Further, the Court shall be satisfied that the said compensation ordered, is in fact, paid prior to entering of judgment of dissolution of marriage.

c. **Divorce on matrimonial fault**

The grounds for this type of divorce have to be specified in the MMDA. A party will be entitled to initiate divorce proceedings under any one or more such grounds and has to establish the same in terms of the law. Consequent to a fully-fledged hearing, an order for divorce will be entered.

In view of the fact that the aforesaid types of divorces are different to the type as enumerated in the MMDA, Sections 27 and 28 be repealed and the above are introduced in new Sections.

d. **Nullity of Marriage –**

Any marriage entered into by and between persons designated in the MMDA to be of 'prohibited degree of relationship' and/or where one or both parties to the marriage is/are minors and/or where either party contracted the marriage under a false name or names and/or where either party was not a Muslim and/or where the marriage has not been consummated, can be declared a nullity, after due consideration of all material facts. Either party to the marriage shall be entitled to prefer an application for such declaration. A new section with this substantive position is introduced.

It is further proposed that

Separate schedules be introduced specifying the procedure to be followed with regards each type of divorce stated above.

Whilst making an order for divorce under any of the types of divorce specified, *inter alia,* orders relating to Iddah maintenance, lying-in expenses, maintenance for children, Ma'taa, return of dowry or Kaikuli, return of Mahr too be enabled to be made. In addition, any settlement, if any, relating to matrimonial property too is enabled to be recorded.

In view of the fact that the types of divorces vary from the earlier and in order to assure that the law should be followed fully, it is advised that Section 30 of the MMDA which deals with "Registration of divorces in cases where proof of divorce is inadequate" be repealed.

10 Mata'a (Alimony or Consolatory Payment)

The concept of Mata'a is one which is enshrined in the Islamic Jurisprudence. This has received attention in the Superior Courts of Sri Lanka, as well. However, it is observed that awarding of Mata'a has been rejected by the said Courts on the basis that the MMDA does not provide for the awarding of Mata'a. In the said backdrop, the Committee is unanimous in advising, that required amendments be introduced to permit to order Mata'a, at the time of dissolution of marriage.

The Committee notes that cases pertaining to Mata'a are pending in the Appellate forums. In order to assure the amendments herein proposed are considered in arriving at decisions in such cases, the Committee recommends that the section

relating to Mata'a is made to apply retrospectively from the date of the principal Act as amended, without prejudice to any decision of a Quazi, the Board of Quazis, the Court of Appeal or the Supreme Court, that may have already and finally been made."

The word Mata'a be defined in Section 97 of the MMDA. It is advised that the interpretation given in Justice Dr. Saleem Marsoof's Committee report be adopted.

11 Maintenance

As far as maintenance is concerned, the Committee observes that the same can be administered either under the MMDA, with amendments or through the mainstream Judicial system, namely through the Magistrate's Court, in terms of the Maintenance Act.

Maintenance under MMDA –

Proposed Amendments

I. Provisions be made permitting the order of maintenance from the date of the application or if the Quazi (to be renamed as 'Muslim Marriage and Divorce Adjudicators' in these amendments as hereinafter specified. Quazi will hereinafter be referred to as Adjudicators) deems it necessary, from a date prior. A similar position is reflected in the Maintenance Act No. 37 of 1999. The articulation of the said proposed section could be as follows;

   "Where an order is made by an Adjudicator for the payment of maintenance under section 47 such maintenance shall be payable from the date on which the application for maintenance was made to such Adjudicator, unless the Adjudicator, for good reasons to be recorded, orders payment from any prior date".

II. Provision is also made to empower the Adjudicator to make orders for interim maintenance.

III. Further it is advised that the Adjudicator be empowered to call for documents from the employer, place of employment or such other person or institution in order to ascertain the income and/or earning capacity of the husband/father, as the case may be.

IV. It is proposed that an amendment be introduced to require the Adjudicator to take into consideration the following factors in making an order for maintenance for the wife:

a. Income and/or earning capacity of the husband;

b. Accommodation, nourishment, health, clothing, transport and care work in relation to children by the wife;

c. Standard of living of wife prior to the point of desertion or withdrawal of maintenance;

d. Cost of living at the time of making the application.

V. Similarly, an amendment be introduced to require the Adjudicator to take into consideration the following factors in making an order for maintenance for the child / children:

a. Income and/or earning capacity of the father;

b. Accommodation, nourishment, health, clothing, transport, education of the child / children;

c. Standard of living of children prior to the point of desertion or withdrawal of maintenance;

d. Cost of living at the time of making the application.

VI. The Committee also proposes that guidance in relation to Maintenance Orders be issued by the Judicial Service Commission to Adjudicators to ensure that Adjudicators take relevant factors into consideration and make an equitable Order.

It is advised that, accordingly, appropriate amendments be brought to Sections 36, 47 (1) (b), (c), (cc), and (e).

Enforcement procedure of orders for Maintenance by an Adjudicator

This Committee unanimously recommends that amendments be introduced to the MMDA;

I. Setting out that the jurisdiction for maintenance applications be where the Child or Wife resides and the application be preferred to the Adjudicator in such area.

II. To ensure that once an Order for maintenance is made a copy of the same to be issued by the Adjudicator to both parties, if the same is requested for, within two weeks of the date of the said Order.

III. To ensure that Orders for maintenance by itself be made enforceable, through the Magistrate Court, without any further certification or certificate. Application for enforcement to be made by the applicant and the procedure to be similar to the existing procedure as stipulated in the Maintenance Act.

IV. To ensure that in maintenance proceedings, preferring an Appeal *ipso facto* will not stay proceedings before the Adjudicator, until and unless an Order staying further proceeding is obtained from the forum or the Court, as the case may be, to which the Appeal is made.

V. To ensure that all arrears of maintenance be ordered to be paid in full on the notice returnable date, without any further inquiry. No part payment to be permitted by the Magistrate unless and until parties enter into a settlement regarding payment.

VI. Sections 64 and 66 of the MMDA be amended to incorporate the above recommendations.

VII. To ensure that the enforcement of the original order for maintenance will be effective until a revision, if any, of the order for Maintenance is made.

VIII. To ensure that in the event of any non-payment of maintenance, to empower the Magistrate to make a custodial sentence in a manner similar to the Maintenance Act of 1999.

IX. To enact provisions to empower the Magistrate to make equitable orders permitting seizure and sale of property belonging to the respondent and to settle outstanding maintenance, in the event of any non-payment of maintenance. Section 30 of the Judicature Act would permit the conferment of such powers to the Magistrate by legislation.

Maintenance under the Maintenance Act

Recommendations

I. The Committee recommends that guidance in relation to Maintenance Orders be issued by the Judicial Service Commission to all Magistrates to ensure that relevant factors such as income and/or earning capacity of the respondent, accommodation, nourishment, health, clothing, transport, care work in relation to children, needs and expenses based on lifestyle during marriage, cost of living at the time of relevant, are taken into consideration and an equitable Order is made.

II. That the Maintenance Act be amended to empower the Magistrates to call for documents from the employer, place of employment or such other person or institution in order to ascertain the income and/or earning capacity of the respondent, as the case may be.

However, the Committee is inclined on advising that maintenance continue to be administered under the MMDA with the aforesaid amendments as opposed to the Maintenance Act, for the reasons that the accessibility to an Adjudicator is high as there would be more than one Quazi within the jurisdiction of a Magistrate's Court. In addition, the process set out under the MMDA is simple. Further, it is also observed that no legal cost would be incurred.

12 Custody

The Committee unanimously advise that, as far as custody is concerned, no amendment be made to the MMDA and the power to decide and make orders with regards custody and access be left to the District Court, as it is now.

13 Reference to 'Sect' in the MMDA

In view of the fact that the amendments proposed should introduce certainty of the Law, the Committee was of the view that no further room should be left for any reference to any Sect, in the MMDA. Leaving a window to refer to the Sect will only cause confusion, complications and uncertainty in the law.

Chairman Mr. Shabry Haleemdeen and members SMM Yaseen, MAM Hakeem, Sheikh Muiz Bukhary, Sheikh M Arkam Nooramith, Naamiq Nafath and ABM Ashraf were of the view as all fundamentals and Islamic jurisprudence as reflected in Shafi, Hanafi and other accepted schools of thought have been considered in the proposed amendments, no further reference be made to the Sect.

Members Safana Gul Begum and Ermiza Tegal take the position that all schools of Islamic jurisprudence have been considered in the development of the provisions of the MMDA and as such introduces certainty of the law therefore no further reference to the Sect is required.

All members, in the said footing, agreed to advise that Sections 11, 16(1), 17(2) (b), 18(1), 19(1), 25(1), 26(1), 28(1), 28(2) and Section 98(2) be amended by the deletion of any reference to the "sect". All matters contemplated in the said provisions will accordingly, be governed by the provisions of the Act itself.

14. General Powers of the Adjudicator

The following amendments be made to the existing Section 47(1) is proposed;

I. It is proposed that terms 'legitimate' and 'illegitimate' in 47(1)(c) and (cc) be deleted and an interpretation in Section 97 be made to the word 'Child' to mean 'child born in or out of wedlock';

II. A new item be introduced, granting power to the Adjudicator to order Ma'taa;

III. A new item be introduced, granting power to the Adjudicator to order interim maintenance for a child or wife;

IV. In view of the fact that the age of Marriage has been set at 18, it is recommended that Section 47(j) which refers to "any application for authority to register the marriage of a girl who has not passed the age of twelve years" be repealed;

V. In view of the fact that the members of the Committee have unanimously agreed that the role of the Wali be not made mandatory and as the types of divorce have been re defined, Sections 47(2), (3), (4) and (5) be repealed.

15 Appeals and Revisions

In view of the fact that the types of divorces provided for are different to the existing types of divorces and taking into consideration the other amendments proposed the Committee advises that the following amendments be made with regards Appeals and Revisions;

I. In view of the fact that amendments have been proposed enabling the Adjudicator to issue Interim Orders, provisions be made for Leave to Appeal applications from such Orders.

II. The Right of Appeal is made available against Orders for divorce on matrimonial fault or any other matter therein and under divorce without consent and without disclosing fault, only against other matters in the Order other than the divorce itself.

It is proposed further that rules be introduced with regards Leave to Appeal applications and Appeals, in a schedule.

Revision is made available for orders for divorce on matrimonial fault or any other matter therein. With regards divorce without consent and without disclosing fault, only against other matters in the Order other than the divorce itself or for procedural errors. Section 44 of the MMDA, be amended, accordingly.

In view of the amendments proposed herein with regards the replacement of the term Quazi with Muslim Marriage and Divorce Adjudicator and Board of Quazi with Muslim Marriage and Divorce Tribunal (as hereinafter morefully specified), making available of Leave to Appeal Applications as aforesaid and in view of the fact that new schedules are to be introduced, as hereinafter provided, appropriate amendments are to be made or Section 60, 62 and 63 of the MMDA are repealed and new Sections be introduced.

16 Offences and penalties

It was observed that the penalties prescribed in the MMDA are outdated and ineffective as at date. The Committee was of the view that the penalties prescribed should be aimed at prevention of the commission of the offence. Accordingly, the Committee decided to propose to enhance the prescribed penalties. The Committee observed that the amendments suggested in Justice Dr. Saleem Marsoof, PC's report

reflect updated and enhanced penalties and that the same be adopted with minor changes which are required to harmonize the penalties prescribed for similar offences in other Laws. It is also proposed that the jurisdiction to try the offences and punish, be vested in the Magistrates Court where the offence was committed.

In the following Sections the following respective amendments with regards penalties are recommended.

Section 79 – fine in a sum of not less than ten thousand and not exceeding twenty- five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or with both such fine and imprisonment.

Section 80(1) – fine in a sum of not less than ten thousand and not exceeding twenty- five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or with both the such fine and imprisonment.

Section 80(2) – Amend age to be 18 years as the age of marriage has been set at 18. penalty to be fine in a sum of not less than ten thousand and not exceeding twenty-five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or with both the such fine and imprisonment.

Section 81 – fine of not less than ten thousand and not exceeding twenty- five thousand rupees and on a second or subsequent conviction to a fine of not less than ten thousand and not exceeding twenty-five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or to both such fine and imprisonment.

Section 82 – fine of not less than ten thousand rupees and not exceeding twenty-five thousand rupees or to imprisonment of either description for a term of not less than six months and not exceeding three years or to both such fine and such imprisonment.

Section 83 - fine of not less than ten thousand rupees and not exceeding twenty-five thousand rupees or to imprisonment of either

description for a term of not less than six months and not exceeding three years or to both such fine and such imprisonment.

Section 85 - fine in a sum of not less than ten thousand and not exceeding twenty -five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or with both such fine and imprisonment.

Section 86 - fine in a sum of not less than ten thousand and not exceeding twenty -five thousand rupees or imprisonment of either description for a term of not less than one year and not exceeding three years or with both the such fine and imprisonment.

Section 87 - fine in a sum of not less than ten thousand and not exceeding twenty -five thousand rupees.

Section 88 - fine in a sum of not less than ten thousand and not exceeding twenty -five thousand rupees.

Section 89 – fine in a sum of not less than ten thousand and not exceeding twenty -five thousand rupees or imprisonment of minimum six months and not exceeding three years or with both such fine and imprisonment.

Section 90 – fine in a sum of not less than ten thousand and not exceeding twenty -five thousand rupees.

Section 91 - fine in a sum of not less than five thousand and not exceeding twenty -five thousand rupees.

It is also recommended to introduce provision where, in the event the person liable under (b) to supply stamp/s refuses or neglects to do so, to enable the other party, if the said party so wishes, to supply the said stamp/s for the purpose of the completion of the process.

This recommendation is on the basis that no prejudice be caused to the other party, relating to any document, by the neglect or the refusal of the other to do what he or she is liable to do.

Section 92 - fine in a sum of not less than five thousand and not exceeding twenty -five thousand rupees.

Section 93 – fine in a sum of not less than ten thousand and not exceeding twenty-five thousand rupees.

In view of the fact that the jurisdiction to try and punish is vested with the Magistrate's Court, the references to appeal to the Board of Quazi in this section together with subsections (2) and (3) be repealed.

17 Interpretation Section – Section 97

Include definitions for –

'Child'- a child born in or out of wedlock.

'Dowry' - *means any sum of money paid, movable or immovable property given or agreed to be given to a bridegroom or a bride in consideration of the marriage, and the same is given prior to, at the time of entering into the contract of marriage, or soon thereafter, as agreed, by the bridegroom or the bride, or any person on behalf of the bridegroom or the bride as the case may be;*

'Iddah period' – two options are proposed:

Members Safana Gul Begum and Ermiza Tegal proposed the following interpretation ;

"a period of 90 days from the date of the dissolution of the marriage and if the order is appealed, from the date of the decision of the Board of Quazi or Court of Appeal or Supreme Court, as the case may be.

The Chairman Shabry Haleemdeen, SMM Yaseen, MAM Hakeem, Naamiq Nafath, ABM Ashraf, Sheik M Arkam Nooramith and Sheik Muiz Bukhary proposed the following ;

"a period of 90 days from the date of the dissolution of the marriage or in the event of the death of the husband a period of 4 months and 10 days from the date of the death or in any event if the wife is pregnant such period shall be till child delivery and if the order aforesaid is appealed, from the date of the decision of the Board of Quazi or Court of Appeal or Supreme Court, as the case may be.

'inhabitant of Sri Lanka' - *shall mean any person who inhabits or had been inhabiting Sri Lanka and shall be presumed to include any descendant of any such person irrespective of whether such person or such descendant has acquired the citizenship or permanent residency of another country, unless it is established by unequivocal evidence that he or she has abandoned such inhabitancy."*

'Mata'a - *means a consolatory payment determined by court in the absence of any express agreement between the parties payable to a wife who is divorced by the husband under section 27 of this Act or under 28(1) of this Act upon proof of the matrimonial fault of the husband;*

'Mahr' - means a mandatory provision that may take the form of money, movable or immovable property or any other thing of value given or promised to be given by or on behalf of the bridegroom to the bride as a token of respect to her at the time of the marriage, that is deemed to be her property.

'Minister' - as used in the Act shall refer to the Minister in charge of the subject that is specified in any particular section.

18 Schedules

FIRST SCHEDULE

Forms

First Schedule includes all Forms relevant to the MMDA.

This Committee having perused, discussed and deliberated on all matters relating to forms under the MMDA, decides that the forms proposed in Justice Dr. Saleem Marsoof's Committee report be adopted with necessary changes, in view of the

amendments proposed herein. The said proposed forms are appended at the end of the schedules.

In view of the amendments proposed to the types of divorces, general powers of the Adjudicator and the Appeal process, this Committee sees it fit to repeal the Second to Fifth schedules to the MMDA and reintroduce the following schedules with regards the following matters. The said Schedules will contain the procedures to be followed and/or other matters to be considered in relation to each matter specified.

Second schedule –	Matters and the procedures to be followed in divorce by mutual consent
Third Schedule-	Matters and the procedures to be followed in divorce on matrimonial fault
Fourth Schedule–	Matters and the procedures to be followed in divorce without consent of the other and without disclosing any matrimonial fault
Fifth Schedule–	Matters and the procedures to be followed in inquiries under Section 47
Sixth Schedule -	Matters to be considered in making an order in relation to a claim of kaikuli, dowry and mata'a
Seventh Schedule –	Rules for Appeals

SECOND SCHEDULE

Divorce by mutual consent

1. Jurisdiction – Where either party resides
2. Application – Jointly to be made in terms of Form VI(c) in First Schedule.
3. Reconciliation – Upon receipt of the application for divorce the Adjudicator shall ensure that a period of 30 days is provided to the parties to exploit the possibilities of reconciliation.

4. At the expiry of the mandatory reconciliation period of 30 days –

   I. Both parties shall appear in person or through proxy with an affidavit of the party and inform the outcome of the said reconciliation process; and

   II. If there is no reconciliation between the parties an order for divorce shall be entered; and

   III. A Certificate of Divorce shall be issued.

5. There shall be no appeal from an order made under this Schedule.

THIRD SCHEDULE

Divorce on matrimonial fault

1. Jurisdiction – Where the wife resides or at the place of the last known residence of the wife

2. Application – Application to be made in terms of Form VI(b) in the First Schedule.

3. Notice –

   I. If the Respondent is in Sri Lanka –

      a. Notice is to be served by registered post.

      b. In the event the same returns, notice is to be served through the Grama Niladari in the area where the Respondent resides.

   II. If the Respondent is not in Sri Lanka –

      a. Applicant to confirm by way of an affidavit that the Respondent is not in Sri Lanka and shall provide all available contact details (telephone, mobile phone number, email and any other effective means of communication) on which the Applicant as well as the Adjudicator shall take appropriate steps to serve the notice.

b. If by (i) or (ii) above, it is not possible to serve notice on the Respondent, the Adjudicator shall dispense with the serving of notice and proceed with the next steps.

4. In the event notice has been dispensed with or where the Respondent fails to appear,

   I. The Adjudicator shall inquire into the application, ex parte and the adjudicator shall forthwith pronounce an ex parte order in relation to the application.

   II. The said ex parte order shall be served on the Respondent by registered post. If the same returns, notice is to be served through the Grama Niladari in the area where the Respondent resides.

   III. If the Respondent appears within 30 days of the issuance of the said ex parte order and satisfies the Adjudicator that the said ex-parte order be set aside, the Adjudicator shall set aside the said ex parte order and commence the inquiry afresh, and make an inter parte order.

5. Reconciliation – If and when the Respondent appears on service of notice (in person or through proxy with an affidavit of the Respondent), the Adjudicator shall ensure that a period of 30 days is provided to the parties to exploit the possibilities of reconciliation.

6. At the expiry of the mandatory reconciliation period of 30 days –

   I. Both parties shall appear in person or through proxy with an affidavit of the party and inform the outcome of the said reconciliation process; and

   II. If both parties inform the Adjudicator that the parties require further time for reconciliation the Adjudicator shall grant a further period of 30 days.

   III. If both parties inform the Adjudicator that the parties have reconciled, all proceedings in relation to the application shall be terminated.

7. If parties inform there is no reconciliation, the application shall be fixed for inquiry

   Mode of inquiry –

I. Signed written statement or affidavit by the applicant and witnesses if any, in support of the application, to be forwarded to the Adjudicator prior to the date fixed for inquiry, with a copy to be served by registered post on the Respondent.

II. Signed written statement or affidavit by the Respondent and witnesses if any, in response to the statement/affidavit tendered by the applicant and witnesses, if any, to be forwarded to the Adjudicator prior to the date fixed for inquiry, with a copy to be served by registered post on the Applicant.

III. The inquiry shall proceed based on the aforesaid statements or affidavits forwarded by both parties, and if necessary, the Adjudicator shall seek clarifications on matters arising thereof or any other matter.

IV. The Adjudicator if satisfied shall make an order granting the divorce or otherwise and cause same to be signed by both parties.

V. A certificate of divorce shall be issued.

VI. An appeal shall be available from such order.

FOURTH SCHEDULE

Divorce without consent of the other and without disclosing any matrimonial fault

1. Jurisdiction – Where the wife resides or at the place of the last known residence of the wife

2. Application – Application to be made in terms of Form VI(a) in First Schedule.

3. Notice –

   I. If the Respondent is in Sri Lanka –

      a. Notice is to be served by registered post.

      b. In the event the same returns, notice is to be served through the Grama Niladari in the area where the Respondent resides.

II. If the Respondent is not in Sri Lanka –

a. Applicant to confirm by way of an affidavit that the Respondent is not in Sri Lanka and shall provide all available contact details (telephone, mobile phone number, email and any other effective means of communication) on which the Applicant as well as the Adjudicator shall take appropriate steps to serve the notice.

b. If by (i) or (ii) above, it is not possible to serve notice on the Respondent, the Adjudicator shall dispense with the serving of notice and proceed with the next steps.

4. In the event notice has been dispensed with or where the Respondent fails to appear,

I. The Adjudicator shall inquire into the application, ex parte and the adjudicator shall forthwith pronounce an ex parte order in relation to the application.

II. The said ex parte order shall be served on the Respondent by registered post. If the same returns, notice is to be served through the Grama Niladari in the area where the Respondent resides.

III. If the Respondent appears within 30 days of the issuance of the said ex parte order and satisfies the Adjudicator that the said ex-parte order be set aside, the Adjudicator shall set aside the said ex parte order and commence the inquiry afresh, and make an inter parte order.

5. Reconciliation – If and when the Respondent appears on service of notice (in person or through proxy with an affidavit of the Respondent), the Adjudicator shall ensure that a period of 30 days is provided to the parties to exploit the possibilities of reconciliation.

6. At the expiry of the mandatory reconciliation period of 30 days –

I. Both parties shall appear in person or through proxy with an affidavit of the party and inform the outcome of the said reconciliation process; and

II. If there is no reconciliation between the parties an order for divorce shall be entered; and

III. A Certificate of Divorce shall be issued.

7. There shall be no appeal from the order for divorce, itself. However, this will not preclude a party from preferring an appeal against an order made with regard any other matter, therein.

FIFTH SCHEDULE

Inquiries under Section 47

1. Jurisdiction – Where the wife resides.

2. Application – To be preferred by the applicant/claimant/complainant in terms of the Regulations published in the Gazette No. LD-B75/51 dated 13th July 1954.

3. Notice –

   I. If the Respondent is in Sri Lanka –

      a. Notice is to be served by registered post.

      b. In the event the same returns, notice is to be served through the Grama Niladari in the area where the Respondent resides.

   II. If the Respondent is not in Sri Lanka –

      a. Applicant to confirm by way of an affidavit that the Respondent is not in Sri Lanka and shall provide all available contact details (telephone, mobile phone number, email and any other effective means of communication) on which the Applicant as well as the Adjudicator shall take appropriate steps to serve the notice.

      b. If by (i) or (ii) above, it is not possible to serve notice on the Respondent, the Adjudicator shall dispense with the serving of notice and proceed with the next steps.

4. In the event notice has been dispensed with or where the Respondent fails to appear,

I. The Adjudicator shall inquire into the application, ex parte and the adjudicator shall forthwith pronounce an ex parte order in relation to the application.

II. The said ex parte order shall be served on the Respondent by registered post. If the same returns, notice is to be served through the Grama Niladari in the area where the Respondent resides. If the Grama Niladhari is unable to serve notice on the Respondent the Adjudicator to order the Grama Nialdhari that a copy of the notice is posted on the front door of the building on the address supplied by the Applicant/claimant/complainant, as the case may be.

III. If the Respondent appears within 30 days of the issuance of the said ex parte order and satisfies the Adjudicator that the said ex-parte order be set aside, the Adjudicator shall set aside the said ex parte order and commence the inquiry afresh, and make an inter parte order.

5. If the Respondent appears on service of notice (in person or through proxy with an affidavit of the Respondent), the Adjudicator shall fix the matter for inquiry.

Mode of inquiry –

I. Signed written statement or affidavit by the applicant and witnesses if any, in support of the application, to be forwarded to the Adjudicator prior to the date fixed for inquiry, with a copy to be served by registered post on the Respondent.

II. Signed written statement or affidavit by the Respondent and witnesses if any, in response to the statement/affidavit tendered by the applicant and witnesses, if any, to be forwarded to the Adjudicator prior to the date fixed for inquiry, with a copy to be served by registered post on the Applicant.

III. The inquiry shall proceed based on the aforesaid statements or affidavits forwarded by both parties, and if necessary, the Adjudicator shall seek clarifications on matters arising thereof or any other matter.

IV. Adjudicator shall pronounce the decision within 3 months from the date of commencement of the inquiry.

6. Claim for Interim Maintenance - In the event the applicant /claimant /complainant claims for interim maintenance, such claim if made orally, shall be

reduced to writing by the Adjudicator. The said claim for interim maintenance shall be considered and an order be made forthwith.

The following shall be considered in making such interim order -

I. The financial standing of the father/husband

II. Earning capacity of the husband/father

III. Needs and necessities of the wife/child/children

IV. Social standing of the parties

7. Once the order relating to the interim maintenance is made, as aforesaid, the same shall be in effect till a final order in relation to maintenance is made by the Adjudicator or judgment entered by the Tribunal or an order or judgment by the Court of Appeal or the Supreme Court, as the case may be, is entered and payment of such maintenance, if any, is commenced.

SIXTH SCHEDULE

Matters to be considered in making an order in a claim for Kaikuli, Dowry or Mata'a

1. Matters to be considered in making an order in relation to Kaikuli or dowry;

In making an order in respect of any matter relating to Kaikuli or Dowry, *inter alia* the following matters shall be taken into consideration where relevant-

I. If the claim for money, movable or immovable property or the value thereof, is made within one year of the marriage, the same shall be recoverable by the wife from the husband;

II. If the claim for money, movable or immovable property or the value thereof, is made after one year of the marriage, the same shall be recovered by the wife from the husband. In such instance, the Adjudicator shall make an equitable order with regard the same, after giving due consideration into all circumstances connected thereto.

2. **Matters to be considered in making an order in relation to mata'a**

In making an order in respect of Mata'a, *inter alia* the following matters, where relevant, shall be taken into consideration

I. The means of the husband including his monthly income;

II. Standard of living during the subsistence of the marriage;

III. The duration of the marriage;

IV. The number of children falling within the custody and care of the husband and/or the wife.

SEVENTH SCHEDULE

Rules for Appeals

Appeals against Final Orders

1. Any party aggrieved by any final order made under Fourth and/or Fifth Schedule, may appeal in writing in the prescribed form to the Muslim Marriage and Divorce Tribunal within 30 days of the pronouncement of such order.

2. In the event an Appeal is preferred against a final order made in a claim for maintenance under Section 47, no proceedings before the Adjudicator shall be stayed unless and until an order staying further proceeding is made by the Muslim Marriage and Divorce Tribunal or the Court, as the case may be, to which the Appeal is made.

3. The hearing of the appeal before the Muslim Marriage and Divorce Tribunal shall ordinarily be conducted in public, unless the Court considers it necessary, in view of the sensitivity of any issue, to conduct the whole or any part of the proceedings in camera.

4. At the conclusion of the hearing, the Muslim Marriage and Divorce Tribunal shall enter judgment and may dismiss or allow the appeal, and may at its discretion, confirm, alter, amend, modify or reverse the order made by the Adjudicator, and may also in in any appropriate case set aside the order of the Adjudicator in whole or in

part and remit the case to the Adjudicator for fresh inquiry. The Muslim Marriage and Divorce Tribunal may at its discretion make such order as to costs as it may deem just.

5. Every judgment pronounced by the Muslim Marriage and Divorce Tribunal made by the said Tribunal shall be reduced into writing and shall be signed by the members of the Tribunal constituting the panel before which the hearing took place.

6. The judgment of the Muslim Marriage and Divorce Tribunal shall be pronounced before any party or his or her Counsel who is present before the Tribunal, and a copy of the said judgment shall be forthwith sent by registered post to any party who was not present at the time the judgment was pronounced.

7. Any party aggrieved by the judgment of the Muslim Marriage and Divorce Tribunal may within 30 days from the date on which the judgment was pronounced shall make an application to the Court of Appeal for Leave to Appeal against such judgment and shall give to the other party to the appeal notice of such application.

8. Where any final order has been made by any Adjudicator and if an appeal is preferred in that case to the Muslim Marriage and Divorce Tribunal or to the Court of Appeal or the Supreme Court, notice of such appeal shall be given by the appellant to the Adjudicator.

   Once the judgment is entered by the Tribunal or once the order or judgment is entered by the Court of Appeal or the Supreme Court, as the case may be, and the same is communicated to the Adjudicator, the Adjudicator shall carry into effect the said order or judgment, as aforesaid.

Leave to Appeal against Interim Orders made under Fifth Schedule

1. A party aggrieved by an order made by the adjudicator for interim maintenance under Fifth Schedule, within 14 days of the date of such order, may prefer an application for leave to appeal, by way of Petition and Affidavit, to the Muslim Marriage and Divorce Tribunal.

2. A party aggrieved by an order made by the Tribunal in respect of an order made for interim maintenance under the Fifth Schedule may prefer an application for leave to appeal to the Court of Appeal within 14 days of the date of such order.

3. In computing the said 14 days, Sundays and public holidays shall be excluded. Further, the date of the order is delivered is excluded and the date of filing the leave to appeal application is included.

4. Notwithstanding anything to the contrary in the preceding provisions, where leave to appeal is granted in respect of an order made by either the adjudicator and/or the Muslim Marriage and Divorce Tribunal with regards interim maintenance under Fifth Schedule, neither the proceedings before the adjudicator and/or the Muslim Marriage and Divorce Tribunal nor the order for payment of interim maintenance shall be stayed unless and until the Muslim Marriage and Divorce Tribunal or the Court of Appeal or the Supreme Court, as the case may be, directs otherwise.

b. AMENDMENTS TO THE QUAZI SYSTEM (for the administration of the Muslim Marriage and Divorce)

In view of the reforms and the amendments proposed herein, the Committee during its discussions and deliberations observed that that a number of reforms have to be made to the existing Quazi system itself. The Committee further observed that, in recent times, the very term 'Quazi' and the Quazi system has given rise to many a controversy and concerns inter and intra community. The Committee taking into consideration the aforesaid decided to introduce reforms and/or amendments to the said system, including a change of the term 'Quazi'.

1. The term 'Quazi' be changed to 'Adjudicator' and the 'Board of Quazis' to 'Muslim Marriage and Divorce Tribunal', in the MMDA

At the discussions and the deliberations with regards the captioned matter/s the Committee observed that the term Qadi (in Arabic) is used to denote a judge who administrates Shariah law, while Quazi (in Sri Lanka) is used to denote the judge who administrates the Muslim matrimonial law. The Committee observes that, at present, the Quazi appointed under the MMDA is neither appointed for nor administers Shariah law as denoted by the term Qadi. Instead, the Quazi is only appointed for the purpose of marriages, divorces, maintenance and other matters connected and to enforce the provisions of the MMDA.

The Committee has discussed that one of the reasons for the resistance for the appointment of women as 'Quazis' is the equating of the above two terms. The Committee has also discussed the justifications, including provisions relating to equality that governs this question.

In the said context, it is the view of this Committee that there is no valid basis to retain the said terms 'Quazi' amidst controversies and concerns, as aforesaid. The Committee proposes that the term 'Muslim Marriage and Divorce Adjudicator' or Adjudicator, as the case may be, be substituted in place of the terms Quazi. The Committee is of the view, that given the fact that the said person appointed will be engaged in adjudication, in terms of the provisions of the Act, that the said term 'Muslim Marriage and Divorce Adjudicator' or Adjudicator will be most suited.

Accordingly, it is proposed that all references to 'Quazi' where the same appears in the MMDA be repealed and substituted with the term 'Muslim Marriage and Divorce Adjudicator' or 'Adjudicator' as the case may be.

As the 'Board of Quazi' acts as an appellate forum, the same be termed as "Muslim Marriage and Divorce Tribunal".

2. **Women be enabled to be appointed for the positions of Muslim Marriage and Divorce Adjudicator, Members of Muslim Marriage and Divorce Tribunal, Muslim Marriage Registrars.**

In view of the aforesaid that one of the reasons for the resistance for the appointment of women as 'Quazis' is the meaning in Arabic of the said term. Further, the Committee observes that the reforms and/or the amendments proposed herein will introduce certainty of Law without leaving any room for any reference to different interpretations of Islamic law or jurisprudence. As such the function of such Quazi or the members of the Board of Quazis will be to interpret and enforce the Muslim Marriage and Divorce Act. These matters taken together with the new term 'Muslim Marriage and Divorce Adjudicator' and member of the Muslim Marriage and Divorce Tribunal will remove all impediments that existed in women being appointed to such positions. Accordingly, this Committee recommends that women be permitted to be appointed as Muslim Marriage and Divorce Adjudicator and/or member of the Muslim Marriage and Divorce Tribunal.

This Committee observes that the Muslim Marriage Registrars perform an administrative function. Accordingly, and in view of the aforesaid decision to permit women for the other two main positions of the Muslim Marriage and Divorce system, the Committee sees no reason as to why women should not be permitted to be appointed as Muslim Marriage Registrar. This position of the Committee will bring the Muslim Marriage and Divorce system in par with the General law as far as it relates to appointment to positions, irrespective of the gender.

In the said premise this Committee advises that women be permitted to be appointed to all the aforesaid positions within the MMDA.

3. **Qualification of Adjudicators and members of the Tribunal**

The Committee during its discussions and deliberations observed that at present the minimum qualification to be appointed as a Quazi and/or a member of the Board of Quazi is minimal. The qualification required, as per Section 12 and 15 of the MMDA is, 'a male Muslim of good character and position and of suitable attainments'. At present there is no requirement that the person appointed has a legal background,

even though one of the primary duties of the Quazi is to interpret and enforce the provisions of the MMDA.

The Committee observed further that the lack of legal knowledge on the part of the Quazis has resulted in the substantial law being interpreted erroneously and making procedural errors, causing many a hardships and difficulties to the parties. This has also led to the filing of a large number of Appeals before the Board of Quazis.

In the said circumstances, the Committee is unanimous in proposing that the minimum qualification for the said positions of Adjudicator and member of the Tribunal be enhanced.

The Committee is in agreement that the said person be Muslim and not below the age of twenty- five years and not over fifty-five years, when it relates to Muslim Marriage and Divorce Adjudicators. However as far as the educational/professional qualification is concerned, two positions have been forwarded.

Position 1

Members Safana Gul Begam and Ermiza Tegal proposed that the said Adjudicator be "an Attorney at Law"

Position 2

The Chairman Shabry Haleemdeen and members SMM Yaseen, MAM Hakeem, Naamiq Nafath, Sheikh Arkam Nooramith and Sheikh Muiz Bukhary proposed that either "an Attorney at law or holder of a Bachelor of Laws degree from a university approved by the Incorporated Council of Legal Education" be entitled to be appointed to such position.

As far as the position of a member of the Muslim Marriage and Divorce Tribunal is concerned the Committee agreed that a Muslim Attorneys at Law with a minimum of 10 years of experience and not below the age of 30 years and not over sixty-five years be entitled to be appointed.

4. Number of Adjudicators

As aforesaid, the Committee took steps to obtain information with regards, inter alia, the number of Quazis serving in the Island at present and the number of pending

cases in each district. Accordingly, a total of 65 Quazis serve on a part time basis in 23 districts. The Committee observes that if the Adjudicators are appointed on a fulltime basis, the number of the Adjudicators could be reduced. In deciding the number, it is recommended that the population served and the number of cases pending in the current Quazi areas be considered.

Table of information, as provided by the Judicial Service Commission, which be taken into consideration in deciding the number of Adjudicators.

District	Number of Quazis - (currently serving part time)	Number of cases pending (Avg for 2018, 2019 and 2020)	Population served (Census, 2012)
Ampara	9	964	281,987
Anuradhapura	1	117	71,493
Badulla	1	122	47,192
Batticaloa	4	619	134,065
Colombo - (with Bohra and Memon)	7	429	274,087
Galle	2	24	39,267
Gampaha	3	155	112,746
Hambantota	2	17	15,204

Jaffna	1	9	2,363
Kalutara	4	105	114,556
Kandy	10	229	197,076
Kegalle	2	49	61,164
Kurunegala	3	151	118,305
Mannar	1	20	16,512
Matale	1	45	45,682
Matara	1	29	25,614
Monaragala	1	9	9,809
Nuwara Eliya	2	26	21,116
Polonnaruwa	1	67	30,465
Puttalam	3	362	150,404
Ratnapura	1	61	24,446
Trincomalee	4	243	159,418
Vavuniya	1	92	11,972
TOTALS	**65**	**3,945**	

5. Remuneration for Adjudicators

The Committee observed that one of the main reasons why qualified and competent individuals are not attracted to the Quazi system is the remuneration paid to such Quazis. The Committee is appraised that at present only rupees Seven Thousand Five Hundred (Rs.7,500/=) a month is paid as remuneration to a Quazi. In view of the aforesaid recommendations to appoint Attorneys at Law and/or a holder of a Bachelor of Laws degree and to reduce the number of Adjudicators, the Committee is of the view that the remuneration scheme of the Adjudicators be revised.

It is proposed, that in view of the fact that the qualification to be an Adjudicator being made to be an Attorney at Law and/or a holder of a Bachelor of Laws degree, the remuneration to an Adjudicator be increased to the scale of a Legal Officer in the government service.

6. Monitoring and Discipline

The Committee observes that the service rendered by the officers appointed under the MMDA is public and/or quasi-judicial in nature. Accordingly, it is recommended that the appointing authority, the Judicial Service Commission, establish an efficient and effective mechanism to monitor the said Adjudicators and their discipline.

Further, in order to deter the Adjudicators and the members of the Muslim Marriage and Divorce Tribunal from engaging in any unethical or corrupt practices, the Committee proposes that the said officers be subjected to the Bribery Act. Accordingly, the Committee advices that the Adjudicators be designated as public officers coming under the preview of the Bribery Act and the Muslim Marriage and Divorce Tribunal be included as a scheduled institution under the Bribery Act.

7. Training of Adjudicators

The Committee observes that in order to receive the expected service, the Adjudicators be subjected to a compulsory training prior to deployment. Accordingly, it is recommended that the Judicial Service Commission consider appropriate steps to provide in-service continuous training with regards the law as well as other matters such as gender sensitivity.

8. Legal representation before an Adjudicator

The Committee observes that at present although Attorneys at law are permitted to appear before the Board of Quazis, section 74 of the Act prohibits the appearance of an Attorney at law on behalf of any party or witness before the Quazi.

Taking into consideration the elevation of the minimum qualification to be appointed as an Adjudicator and in view of the fact that in implementing the provisions of the MMDA, interpretation of the law is involved, the Chairman Shabry Haleemdeen and members SMM Yaseen, Safana Gul Begum and MAM Hakeem subscribe to the position that legal representation be permitted before and Adjudicator. Further, it is so as legal representation is permitted in almost all forums of first instance and that legal as well as factual matters which will be relevant in appeals, might not be properly addressed unless there is legal advice and/or representation.

However, members Ermiza Tegal, Naamiq Nafath, Sheikh M Arkam Nooramith, Sheikh Muiz Bukhary and ABM Ashraff proposed that legal representation be not permitted as it would facilitate establishing an inquisitorial mechanism by which adjudication takes place in the first instance. Further permitting legal representation would burden especially the female party with legal expenses and it could also cause power imbalance between litigant and legal representative. Accordingly, the said members stated no amendment is required with regards the same.

In the event the position that legal representation be permitted, is opted, section 74 of the Act be amended by deleting the word "No" at the beginning of the said section and substituting the same with the word "An".

FORM II

Section 18 (1) (a) of the Muslim Marriage and Divorce Act

FORM OF DECLARATION BY BRIDEGROOM

I ..... (holder of NIC or Passport bearing No:.....), of.....(being the bridegroom) hereby give notice that a marriage is about to be solemnized between ..... (name of bride) and myself, and I further hereby solemnly declare that to the best of my knowledge and belief the several particulars entered below are true and correct and that there is no lawful impediment to the said marriage:-

1. Bridegroom's name in full:	
2. Bridegroom's date of birth and age on proposed date of registration:	
3. Bridegroom's NIC or Passport No:	
4. Residential address of bridegroom:	
5. Bride's name in full:	
6. Bride's date of birth and age on proposed date of registration:	
7. Bride's NIC or Passport No:	
8. Bride's residential address:	
9. Whether the bridegroom was previously married or not:	
10. If previously married, to whom:	
11. Whether bridegroom's previous wife is dead or divorced:	
12. If dead, particulars of death including Death Certificate No:	
13. If divorced, date and number of divorce registration and divorce case number:	
14. If the bride and groom are already related, particulars of the relationship:	

Signature of Bridegroom

1st Witness

Name	
NIC or Passport bearing no.	
Address	

2nd Witness

Name	
NIC or Passport bearing no.	
Address	

We, the above described, 1st and 2nd witnesses do hereby certify that the aforesaid Bridegroom..... who is known to us, placed his signature in our presence at ..... (place of making declaration).

Signature of 1st witness

Signature of 2nd witness

Signed before me, on this...day of..... 20.... at ..... (Place of making declaration).

Signature of Registrar of Muslim Marriages / Justice of the Peace / Commissioner for Oaths

FORM III

Section 18 (1) (b) of the Muslim Marriage and Divorce Act

FORM OF DECLARATION BY BRIDE

I .....(holder of NIC or Passport bearing No:.....), of.....(being the bride) hereby give notice that a marriage is about to be solemnized between .....(name of bridegroom) and myself, and I further hereby solemnly declare that to the best of my knowledge and belief the several particulars entered below are true and correct and that there is no lawful impediment to the said marriage:-

1. Bride's name in full:	
2. Bride's date of birth and age on proposed date of registration:	
3. Bride's NIC or Passport No:	
4. Residential address of bride:	
5. Bridegroom's name in full:	
6. Bridegroom's date of birth and age on proposed date of registration:	
7. Bridegroom's NIC or Passport No:	
8. Bridegroom's residential address:	
9. Whether the bride was previously married or not:	
10. If previously married, to whom:	
11. Whether bride's previous husband is dead or divorced:	
12. If dead, particulars of death including Death Certificate No:	
13. If divorced, date and number of divorce registration and divorce case number:	
14. If the bride and groom are already related, particulars of the relationship:	

Signature of Bride

1st Witness

Name	
NIC or Passport bearing no.	
Address	

2nd Witness

Name	
NIC or Passport bearing no.	
Address	

We, the above described, 1st and 2nd witnesses do hereby certify that the aforesaid Bride..... who is known to us, placed her signature in our presence at ..... (Place of making declaration).

Signature of 1st witness Signature of 2nd witness

Signed before me, on this...day of..... 20.... at ..... (place of making declaration).

Signature of Registrar of Muslim Marriages / Justice of the Peace / Commissioner for Oaths

FORM IV
MUSLIM MARRIAGE AND DIVORCE ACT
MARRIAGE REGISTER

1. District:		
2. Full name of Marriage Registrar registering the marriage:		
3. Address of Marriage Registrar:		
4. Reference No. of the Declaration made by the Bride:		
5. Reference No. of the Declaration made by the Bridegroom:		
6. Full Name of the person solemnizing the marriage (if the solemnization is not conducted by the Registrar)		
7. Name in Full:	Bride:	Bridegroom:
8. Residential address:		
9. NIC No / Passport No:		
10. Civil status of parties to marriage at time of marriage:		
11. If any previous marriage has been declared a nullity particulars thereof and Case No. and date of order		
12. If previously divorced, particulars thereof including the Case No or Nos. and date or dates of registration of divorce		
13. Particulars of Mahr, whether handed over or not:		
14. Particulars of Kaikuli, whether handed over or not:		
15. Particulars of Dowry, whether handed over or not:		
16. Have the parties entered into a marriage contract? Yes / No If yes, a copy of same to be attached.		

17. Date, time and place where the solemnization took place:
18. Date, time and place where the registration took place:
19. Full name and residential address of 1st Witness:
20. Full name and residential address of 2nd Witness:
21. Signature of Bride
22. Signature of Bridegroom
23. Signature of 1st Witness
24. Signature of 2nd Witness
25. Signature of person solemnizing the marriage:
26. Signature of person registering the marriage:

FORM V(A)
MUSLIM MARRIAGE AND DIVORCE ACT
DIVORCE REGISTER

1. District:		
2. Adjudicator's area:		
3. Case number allocated by Adjudicator:		
4. Tribunal case No:*		
5. Court of Appeal case No.*		
6. Supreme Court case No:*		
	Bridegroom:	Bride:
7. Name in Full:		
8. Address in Full (as on date of registration of Divorce)		
9. NIC No / Passport No:		
10. Number and date of registration of marriage:		
11. Nature of Divorce (under which section of Act):		
12. Whether the Divorce was granted by the Adjudicator, the Tribunal or the Court of Appeal or the Supreme Court, and the date of the relevant order of court:		
13. Date of registration of Divorce:		
14.Signature of a. Wife (if present): b. Husband (if present): c. Adjudicator: (Seal of Adjudicator)		

*To be included only where there had been an appeal or appeals

FORM V (B)
MUSLIM MARRIAGE AND DIVORCE ACT
NULLITY REGISTER

1. District:		
2. Adjudicator's area:		
3. Case number allocated by Adjudicator:		
4. Tribunal case No:*		
5. Court of Appeal case No.*		
6. Supreme Court case No:*		
	Bridegroom:	Bride:
7. Name in Full:		
8. Address in Full (as on date of registration of Nullity)		
9. NIC No / Passport No:		
10. Number and date of registration of marriage:		
11. Whether the Nullity was granted by the Adjudicator, the Tribunal or the Court of Appeal or the Supreme Court, and the date of the relevant order of court:		
12. Date of registration of Nullity:		
13.Signature of a. Wife (if present): b. Husband (if present): c. Adjudicator: (Seal of Adjudicator)		

*To be included only where there had been an appeal or appeals

FORM VI (A)
MUSLIM MARRIAGE AND DIVORCE ACT
APPLICATION FOR DIVORCE ON THE BASIS OF MUTUAL CONSENT

I, ...(name in full), of.....(address in full), (holder of NIC or Passport bearing No:.....), hereby declare that I married .....(name in full), who holds NIC or Passport bearing No:.....), of.....(address in full) on.....(date) within the District of.....,in Sri Lanka, and the marriage was registered under the provisions of the Marriage and Divorce (Muslim) Act No. 13 of 1951.

A copy of the extract from the Muslim Marriage Register maintained under the said Act is annexed herewith.*

I further declare that we wish to mutually terminate our marriage.

I further declare that we have no children* / the below named children* whose ages are stated against their names:

1..... (name) .....(age)

2..... (name) .....(age)

3..... (name) .....(age)

We have mutually agreed on the following terms with respect to the future affairs of the children*and / or ..... (state any other matters on which settlement has been reached:
(If there is a detailed agreement signed by the parties, the same may be attached)

Accordingly, we apply for divorce in terms of section 27 of the Muslim Marriage and Divorce Act and the Second Schedule to the Act, and pray that an appropriate order be made for divorce, and the same be registered as provided in the said Act.

*Strike off what is inapplicable

1..... 2 ..... (Signature/s of applicant /applicants)

Before me at ..... on this day, the.....the of .....20....

..... (Signature of Justice of Peace)

FORM VI (B)
MUSLIM MARRIAGE AND DIVORCE ACT
APPLICATION FORM FOR DIVORCE ON MATRIMONIAL FAULT

The Adjudicator for …….. (area),
.....(address)

I, ... (name in full), of.....(address in full), (holder of NIC or Passport bearing No:……), hereby declare that I married …….....(name in full), who holds NIC or Passport bearing No:…….……), of ....(address in full) on.....(date) within the District of ……., in Sri Lanka, and the marriage was registered under the provisions of the Marriage and Divorce (Muslim) Act No. 13 of 1951.

A copy of the extract from the Muslim Marriage Register maintained under the said Act is annexed herewith*

I further declare that I desire to divorce my husband and do hereby apply for the same on the following ground or grounds:-

……
……
……
……
……
……
……
……

I further declare that we have no children* / the below named children* whose ages are stated against their names:

1……(name) ……(age)

2……(name) ……(age)

3……(name) ……(age)

My wife and I have mutually agreed on the following terms with respect to the future affairs of the children*and / or ……(state any other matters on which settlement has been reached:
……

.....
.....
.....
.....
.....
(If there is a written agreement signed by the parties, the same may be attached)

Accordingly, I apply for divorce in terms of section 28 read with the Fourth Schedule to the Muslim Marriage and Divorce Act, and pray that an appropriate order be made for divorce, and the same be registered as provided in the said Act.

*Strike off what is inapplicable.

.....
(Signature of applicant)

FORM VI (C)
MUSLIM MARRIAGE AND DIVORCE ACT
APPLICATION FORM FOR DIVORCE WITHOUT CONSENT AND WITHOUT DISCLOSING FAULT

The Adjudicator for ..... (area),
.....(address)

I, ...(name in full), of.....(address in full), (holder of NIC or Passport bearing No:.....), hereby declare that I married .....(name in full), (who holds NIC or Passport bearing No:.....), of .....
.....(address in full) on.....(date) within the District of....., in Sri Lanka, and the marriage was registered under the provisions of the Marriage and Divorce (Muslim) Act No. 13 of 1951.

A copy of the extract from the Muslim Marriage Register maintained under the said Act is annexed herwith.*

I further declare that I desire to divorce my wife /husband and do hereby apply for the same.
I further declare that we have no children* / the below named children* whose ages are stated against their names:

1.....(name) .....(age)

2.....(name) .....(age)

3.....(name) .....(age)

My wife and I have mutually agreed on the following terms with respect to the future affairs of the children*and / or .....(state any other matters on which settlement has been reached:

.....
.....
.....
.....
.....
.....
(If there is a written agreement signed by the parties, the same may be attached)

Accordingly, I apply for divorce in terms of section 28A read with the Third Schedule to the Muslim Marriage and Divorce Act, and pray that an appropriate order be made for divorce, and the same be registered as provided in the said Act.

*Strike off what is inapplicable.

.....
(Signature of applicant)

FORM VI (D)
MUSLIM MARRIAGE AND DIVORCE ACT
APPLICATION FOR A DECLARATION OF NULLITY

I, ...(name in full), of.....(address in full),(holder of NIC or Passport bearing No:.....), hereby declare that I married .... (name in full), who holds NIC or Passport bearing No:.....), of.....(address in full) on.....(date) within the District of.....,in Sri Lanka, and the marriage was registered under the provisions of the Marriage and Divorce (Muslim) Act No. 13 of 1951.

A copy of the extract from the Muslim Marriage Register maintained under the said Act is annexed herewith.*

I further declare that I desire to annul my marriage and do hereby apply for the same on the following ground or grounds:-

1.....[more grounds may be added if so advised]

I further declare that we have no children* / the below named children* whose ages are stated against their names:

1.....(name) .....(age)

2.....(name) .....(age)

3.....(name) .....(age)

We have mutually agreed on the following terms with respect to the future affairs of the children*and / or .....(state any other matters on which settlement has been reached: .... (If there is a detailed agreement signed by the parties, the same may be attached)

Accordingly I apply for divorce in terms of section 28B read with Fifth Schedule to the Muslim Marriage and Divorce Act, and pray that an appropriate order be made declaring the marriage a nullity, and the same be registered as provided in the said Act.

*Strike off what is inapplicable

..... (Signature of applicant)

Before me at ..... on this day, the..... of .....20....

..... (Signature of Justice of the Peace)

AN ACT TO AMEND THE MARRIAGE AND DIVORCE (MUSLIM) ACT NO. 13 OF 1951

(TO BE ADMINISTERED THROUGH MUSLIM MARRIAGE AND DIVORCE ADJUDICATORS)

Texts in Grey are used hereinafter where members of the Committee had taken 2 different positions with regards a matter. The position opted by the Hon. Minister shall accordingly, be adopted.

Be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka, as follows:

1. This Act may be cited as the Muslim Marriage and Divorce (Amendment) Act No. ... of 2021.

2. Section 1 of the Muslim Marriage and Divorce Act No. 13 of 1951 (hereinafter referred to as the 'principal enactment') is hereby amended by the repeal of the said section and the substitution, therefore of the following:

   "This Act shall apply only to marriages, divorces, maintenance and other matters connected therewith, of persons professing Islam (hereinafter referred to as "Muslims") at least one of whom is an inhabitant of Sri Lanka".

3. Sections 4, 5, 6 and 7 of the principal enactment are hereby repealed.

4. Section 8(1) of the principal enactment is hereby amended by deletion of the word "male" appearing immediately prior to the word 'Muslim'.

5. Section 8(7) of the principal enactment is hereby amended by the substitution of the words: "and recall the certificate relating to such appointment." with "with the approval of the Minister by Order published in the Gazette, and such removal shall take effect on the date specified in such Order."

6. Section 10(7) of the principal enactment is hereby amended by the insertion immediately after the words 'by the Registrar in his discretion' with "with the approval of the Minister by Order published in the Gazette, and such removal shall take effect on the date specified in such Order."

7. Section 11 of the principal enactment is hereby amended by the insertion immediately after the words 'in respect of any particular marriage in any area' the words "by the bride and/or the bridegroom"

8. If position 1 is opted

Section 12(1) of the principal enactment is hereby amended by the repeal of the words "any male Muslim of good character and position and of suitable attainments to be a Quazi" with "any Muslim Attorney at law not below the age of twenty-five years and not over fifty- five years to be a Muslim Marriage and Divorce Adjudicator"

OR

If position 2 is opted

Section 12(1) of the principal enactment is hereby amended by the repeal of the words "any male Muslim of good character and position and of suitable attainments to be a Quazi" with "any Muslim Attorney at law or Muslim holders of Bachelor of Laws degree from a University approved by the Council of Legal Education, not below the age of twenty-five years and not over fifty-five years, to be a Muslim Marriage and Divorce Adjudicator".

9. Section 12(1) of the principal enactment is hereby amended by the insertion of the words "reaches the age of fifty-five or' immediately after the words "unless he earlier resigns his office,"

10. If position 1 is opted under section 8 above

Section 14(1) of the principal enactment is hereby amended by the substitution of the words "male Muslim of good character and position and of suitable attainments" with the words "Attorney at law not below the age of twenty- five years and not over fifty-five years, to be a special Muslim Marriage and Divorce Adjudicator"

OR

If position 1 is opted under section 8 above

Section 14(1) of the principal enactment is hereby amended by the substitution of the words "male Muslim of good character and position and of suitable attainments" with the words "Attorney at law or Muslim holders of Bachelor of Laws degree from a University approved by the Council of Legal Education, not below the age of twenty-five years and not over fifty- five years, to be a special Muslim Marriage and Divorce Adjudicator".

11. Section 15(1) of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

    "The Judicial Service Commission shall appoint a Muslim Marriage and Divorce Tribunal, consisting of five Muslim Attorneys at Law with a minimum of 10 years of experience who are not below the age of 30 years and not over sixty years, to hear appeals from the decisions of the Muslim Marriage and Divorce Adjudicator under this Act".

12. Section 15(5) of the principal enactment is hereby amended by the insertion of the words "reaches the age of sixty, or" immediately after the words "is terminated by the Judicial service Commission or any such member".

13. Section 16 of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

    "No marriage shall be valid unless it is registered and solemnized in terms of the provisions of this Act."

14. Section 17(1) of the principal enactment is hereby amended by;

    a. the deletion of the words "Save as otherwise hereinafter expressly provided," at the beginning of the said section; and

    b. the substitution of the word "Nikkah" with the word "solemnization".

15. Section 17(2) of the principal enactment is hereby amended by;

    a. the insertion of the words "solemnized and" immediately after the words "the duty of causing it to be".

    b. the deletion of all words in sub section (b) and the substitution of the words "the bride, therefore; and

       If the position Wali is optional is opted -
       The insertion of a new sub section (bb) as follows:

       "Wali, if any; and"

    c. the substitution of the words "Nikkah ceremony" in subsection (c) with the words "solemnization".

16. Section 17(3) (a) and (b) of the principal enactment is hereby amended by the substitution of the words "the Nikkah" with the words "solemnized and".

17. Section 17(4) of the principal enactment is hereby amended by

    a. the substitution of the words "Nikkah ceremony" with the word "solemnization" in the main sub section and in sub subsection (b) and (d), and

    If the role of the Wali is not opted -

    b. repeal of sub section (c)

18. Section 17(6) of the principal enactment is hereby amended by the insertion of the word "Magistrate" immediately before the word "court".

19. Section 18(1) of the principal enactment is hereby amended by;

    a. the repeal of the words "the Wali of"; and

    b. the repeal of the two provisos immediately thereafter

    c. the insertion of the words "in any event," immediately before the words "it shall be the duty of the Registrar to require" and the substitution of the words "and, where necessary under the preceding provisions, the wali" with the words "the bride" in the last paragraph thereof.

20. Section 19(1)(b) of the principal enactment is hereby amended by;

    a. the substitution of the words "in every case where the consent of the wall has not been dispensed with under section 47 and is required by the Muslim law governing the sect to which the bride belongs, the wall of the bride; and" with the words "the bride; and".

21. Section 19(1)(c) and (d) and 19(2) of the principal enactment are hereby amended by the substitution of the words "Nikkah ceremony" with the word "solemnization".

22. Section 21 of the principal enactment is hereby amended by:

    a. the insertion of the words "the bride" immediately after the words "on being required to do so by the bridegroom or" and

    b. the repeal of the words "the wali" thereof, and

c. the substitution of the word "Nikkah ceremony" with the word "solemnization"

If position 2 with regards the Wali is opted -

Section 21 of the principal enactment is hereby amended by;

a. the insertion of the words "the bride and" immediately after the words "on being required to do so by the bridegroom or"; and

b. the insertion of the words ", if any" immediately before the words "of the bride"

c. the substitution of the word "Nikkah ceremony" with the word "solemnization"

23. The second proviso to Section 21 of the principal enactment is hereby amended by the substitution of the words "two or more places" with the words "more than one place".

24. Section 22 of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following;

"No marriage shall be contracted by a Muslim woman during her Iddat period"

25. Section 23 of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following;

"No marriage contracted after the coming into force of this amendment shall be valid unless both parties to the marriage have completed eighteen years of age".

26. Section 24(1), (2), (3) and (4) of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

"No marriage shall be valid where either of the parties thereto shall have contracted a prior marriage which shall not have been legally dissolved or declared void"

27. Section 25 of the principal enactment is hereby repealed.

28. Section 26 of the principal enactment is hereby repealed.

29. Section 27 of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

Divorce by mutual consent

27. Where both parties to the marriage desires to effect a divorce from one another the procedure laid down in Second Schedule shall be followed.

30. Section 28 of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

Divorce on the grounds of matrimonial fault

28. Where either party desires to effect a divorce from the other, on the ground of ;

(a) impotency or infertility of a party at the time of marriage and continues to be so;

(b) ill-treatment;

(c) adultery;

(d) non-maintenance by the husband;

(e) disappearance of either party resulting in whereabouts not being known for a period exceeding 3 years;

(f) sentenced to imprisonment for a period of 7 years or more and such sentence is final;

(g) violation by either party of any term of the contract of marriage,

(h) any party to the marriage becoming a non-Muslim any time after the marriage.

the procedure laid down in the Third Schedule shall be followed.

31. The following new section is hereby inserted immediately after Section 28 of the principal enactment and shall have effect as Section 28A of that enactment:

Divorce by

28A. Where either party desires to effect a divorce from the other,

without consent and without disclosing fault	without consent, and without disclosing any ground for divorce, the procedure laid down in Forth Schedule shall be followed.

32. The following new section is hereby inserted immediately after Section 28 of the principal enactment and Section 28A of these amendments and shall have effect as Section 28B of that enactment:

Nullity of marriage

28B. (1) Any person who is a party to a marriage under this Act, may within a reasonable time make an application in the prescribed form for a declaration of nullity of marriage from the Adjudicator of the area in which the wife is resident.

(2) An Adjudicator may grant a declaration of nullity of marriage on any one or more of the following grounds:

(a) where either party are directly descended from the other; or

(b) where the female is the sister of the male either by the full or the half-blood, or the daughter of his brother or of his sister by the full or the half-blood, or a descendant from either of them, or daughter of his wife by another father, or his son's or grandson's or father's or grandfather's widow; or

(c) where the male is the brother of the female either by the full or the half-blood, or the son of her brother or sister by the full or the half-blood, or a descendant from, either of them, or the son of her husband by another mother, or her deceased daughter's or granddaughter's or mother's or grandmother's husband.

(d) where either party was not a Muslim

(e) where one or both parties to the marriage is/are minors

(f) where either party contracted the marriage under a false name or names,

(f) where both parties agree that the marriage has not been consummated,

All declarations of nullity granted by the Adjudicator shall be entered in a Nullity Register to be maintained by Adjudicator in the format prescribed in Form 5(B) of First Schedule.

33. The following new section is hereby inserted after Section 28 of the principal enactment and Section 28B of these amendments and shall have effect as Section 28C of that enactment:

Mata'a

28C. (1) Where a marriage has been or is to be dissolved

(i) on the ground of any matrimonial fault of the husband in terms of section 28 or

(ii) where the husband applies for divorce in terms of section 28(A),

the wife shall be entitled to *Mata'a* and may apply for the same in terms of section 47(1)(h) of this Act.

(2) In determining the quantum of *Mata'a* to be awarded, the Adjudicator may take into consideration *inter alia* the following matters:-

(a) the means of the husband including his monthly income;

(b) the social and economic standing and educational attainments of the husband and wife;

(c) the age of the husband and that of the wife;

(d) the duration of the marriage;

(e) the number of children falling within the custody and care of the husband and /or the wife;

(3) Where there is any dispute as regards the means of monthly income of the husband, the burden of proving the same shall be on the husband.

(4) The provision in sub-sections (1), (2) and (3) shall apply retrospectively from the date of the principal Act as amended, without prejudice to any decision of a Quazi, the Board of Quazis, the Court of Appeal or the Supreme Court, that may have been finally made."

34. The following new section is hereby inserted after Section 29 of the principal enactment and shall have effect as Section 29A of that enactment:

Registration of nullity of marriage

29A. (1) The Adjudicator who is required to register a nullity shall enter, in Sinhala or in Tamil, a statement of the particulars of the divorce or nullity in triplicate, that is to say, the original, the second copy (hereinafter referred to as the "duplicate") and a third copy, in a nullity register, which the Adjudicator is hereby required to keep for that purpose substantially in Form V(B) set out in the First Schedule. The third copy shall bear an endorsement under the hand of the Adjudicator to the effect that it is issued under section 29A(5).

(2) The entries relating to any nullity in the nullity register, shall be signed in the original, and in the duplicate and in the third copy by the Adjudicator and by both parties if present at the time the entries are made.

(3) The nullity of marriages to be registered under subsection (1) in the nullity register as the case may be, shall

(a) be entered, each on a page, on consecutive pages of that register, commencing with the first page for the first divorce or nullity of marriage to be registered, and

(b) be numbered consecutively in that register, in the order of time in which the Adjudicator registers the nullity of marriages.

(4) The party applying for a nullity shall pay the prescribed fee to the Adjudicator as soon as the proceedings for the nullity are commenced. The prescribed fee shall be paid in stamps and such stamps shall be affixed to the duplicate of the entries relating to the divorce or nullity

41. Section 46(3) of the principal enactment is hereby amended by;

a. the substitution of the words "as soon as may be" with the words "not later than 2 months"; and

b. the insertion of the words "in writing" immediately after the words "communicate its opinion thereon"; and

c. the substitution of the word "shall" in the phrase "and such Quazi shall, in the proceedings in which the question arose" with the word "may"

d. the insertion of the words "consider" immediately after the words "in the proceedings in which the question arose".

42. Section 47(1) of the principal enactment is hereby amended by:

a. by the insertion of the words "or interim maintenance" immediately after the words "any claim for maintenance" in sub section (b); and

b. by insertion of the words "or interim maintenance" immediately after the words "any claim for maintenance" in sub section (c).

c. by insertion of the words "by the wife" immediately after the words "any claim for Kaikuli"

d. by insertion immediately after sub section (f) the following which shall have effect as Section 47(1)(ff):

"any claim for dowry by either the husband or wife;"

e. by repeal of sub sections (h) and (j)

f. by insertion immediately after sub section (j) the following which shall have effect as Section 47(1)(k):

"any claim for Mata'a by the wife".

43. Section 47(2), (3), (4) and (5) of the principal enactment is hereby repealed.

44. Section 47(6) of the principal enactment is hereby amended by repeal of the words therein and substitution of same with the following:

"Every inquiry under this section shall be held in accordance with the rules in the Fifth Schedule"

as the case may be and shall be duly cancelled by the Adjudicator.

(5) Upon the registration of a nullity the third copy referred to in this section shall forthwith, free of charge, be delivered or transmitted by post to the party applying for nullity by the Adjudicator.

35. Section 30 of the principal enactment is hereby repealed.

36. Section 36 of the principal enactment is hereby amended by the insertion of the following immediately after all the words in the said section:

"Provided that in the instances where spouses have been separated prior to the date of the claim, the Adjudicator may, if he deems fit, make order for maintenance commencing from the date of separation which shall in any event not be one year prior to the date of the claim.

In any case where the income of the person who is liable to pay maintenance is in dispute, the burden shall be on such person to prove his income by evidence."

37. Section 37 of the principal enactment is hereby amended by;

a. the insertion of the word 'dowry' immediately after the word "Kaikuli"; and

b. the insertion of the words "and/or to receive payments" immediately after the words "to institute proceedings, to appear".

38. Section 38 of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

Mode of payment where party is represented under section 37

38. (1) Where, in any proceedings under this Act, an order is made for Mahr, Kaikuli or dowry, the Adjudicator may direct the respondent to deposit the amount of the payment due under such order in favour of such person entitled to such payment, at such bank as may be specified in such order.

(2) In the absence of a bank account in the name of the person entitled to such payment, the Adjudicator may direct the respondent to make such payment to the person representing the claimant under section 37.

39. Section 41 of the principal enactment is hereby repealed.

40. Section 45 of the principal enactment is hereby repealed.

45. Section 47 of the principal enactment is hereby amended by the insertion of the following immediately after sub section (6) of the enactment and shall have effect as Section 47(7) of the enactment:

"In making the order in relation to a claim made under subsection (1)(f) and (ff) above the Adjudicator shall consider the rules set out in the Sixth Schedule."

46. The following section is hereby amended by the insertion of the following immediately after Section 48 of the principal enactment and shall have effect as Section 48A of that enactment:

"Notwithstanding anything to the contrary in the preceding provisions, a child or a wife shall not be prevented from making an application, for maintenance, if any, in terms of provisions of the Maintenance Act No. 37 of 1999."

47. Section 51(1) of the principal enactment is hereby amended by the substitution of the word "one thousand" with the words "five hundred thousand" in the enactment.

48. Section 52 of the principal enactment is hereby amended by ;

    a. the substitution of the word "fourteen" with the word "eighteen" in the enactment; and

    b. the insertion of the following immediately after the first proviso to the section in the enactment:

"Provided further that where the wife who is entitled to any money, through sickness, infirmity or other reasonable cause is unable to appear in person such payment may be made by the Adjudicator to a representative authorized in writing by the person making the claim."

49. Section 56(4) of the principal enactment is hereby amended by the insertion of the words "or nullity" immediately after the words "purports to be a register of Muslim marriages, divorces" in the enactment.

50. The following section is hereby inserted after Section 56 of the principal enactment and shall have effect as Section 56A of that enactment:

"Unless otherwise provided by regulation, every Adjudicator shall, upon final conclusion of every application made to the Adjudicator, send to the Secretary to the Muslim Marriage and Divorce Tribunal, the record maintained in that regard, not later than 3 months from the date of the conclusion of the case."

51. Section 57 of the principal enactment is hereby repealed.

52. Section 58 of the principal enactment is hereby amended as follows:

a. by insertion of the words "or nullity" immediately after the words "who registers a divorce"; and

b. by insertion of the words "or nullity register" immediately after the words "shall detach the duplicate from the marriage register, the divorce register"; and

c. by insertion of the words "or nullity" immediately after the words "before the fifth day of the month following that in which the marriage, divorce".

53. Section 59(2) of the principal enactment is hereby amended by the substitution of the word "house" with the words "office or residence" in the enactment.

54. Section 60(1) of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

60. (1)(a) Any party aggrieved by any order made by an Adjudicator in relation to a claim of interim maintenance, under the rules in the Fifth Schedule shall have a right of appeal to the Muslim Marriage and Divorce Tribunal, with the leave of the Tribunal first had and obtained:

(b) Any party aggrieved by any final order made by an Adjudicator in any claim or for a declaration under section 47 shall have a right of appeal to the Muslim Marriage and Divorce Tribunal:

55. Section 61 of the principal enactment is hereby amended by the substitution of the word "within" with the words "before the expiry of a period of" and substitution of the words "the order appealed from is notified to" with "date of the receipt of the copy of the order appealed by"

56. Section 62 of the principal enactment is hereby amended by the insertion of the words "leave to appeal or" immediately after the words "Any party aggrieved by any order of the Board of Quazis on any" in the enactment.

57. Section 63 of the principal enactment is hereby amended

a. by the substitution of the words "Fifth Schedule" with the words "Seventh Schedule" in the enactment; and

b. by the insertion of the word "final" immediately after the words "or in any regulation under this Act relating to appeals against" in the enactment.

58. Sub section 63(a) of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

(a) where any appeal is filed out of time, to entertain the appeal if the Tribunal is satisfied that the petitioner was prevented by causes not within the petitioner's control from complying with the preceding provisions; and

Provided also that it appears to the Tribunal that the petitioner has a good ground of appeal, and that nothing has occurred since the date when the order which is appealed from was passed to render it inequitable to the respondent that the order appealed from should be disturbed; or"

59. Section 64(1) of the principal enactment is hereby amended;

a. by repeal of the words "other than proceedings for recovery of Mahr or Kaikuli)"; and

b. by the substitution of the word "allowed" with the word "ordered"; and

c. by the insertion of the words "or the Supreme Court" immediately after the words "by the Court of Appeal; and

d. by the substitution of the words "person liable to pay such some" with the word "claimant";

60. Section 64(2) of the principal enactment is hereby amended by the deletion of the words "Quazi and shall be supported by a certificate under his hand stating the amount of the sum due, the name of the person liable to pay such sum, the name or names of the person or persons entitled thereto, and whether the proceedings in which the order requiring the payment was made were *inter partes* or *ex parte*." with the words "claimant in the Form VIII in the First Schedule and shall be supported by a certified copy of the order" in the enactment; and

61. Section 64(3) of the principal enactment is hereby amended by the repeal and substitution of the word "remitted" with the words "handed over" and the repeal and substitution of the word "Quazi" with the word "claimant" in the enactment.

62. Section 65(1) of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

Recovery of claims on moveable or immovable property relating to	65. (1) In allowing any claim under section 47 for the recovery of movable property (other than money) or immovable property, relating to Mahr, Kaikuli or dowry the Adjudicator, or on appeal, the Tribunal, or in the case of a further appeal, the Court of Appeal or Supreme Court, may make order that movable or immovable property be

Mahr, Kaikuli and Dowry

conveyed to the claimant in such manner as may be specified in the order.

(2) Where default is made in the conveyance of any movable or immovable property specified in an order made under subsection (1), an application for enforcement of the said order may be made to the District Court having jurisdiction in the area within which the claimant is for the time being resident.

(3) Every application made under subsection (2) shall be supported by a certified copy of the order.

(4) Every application made under subsection (2) shall be registered by the Judge of the relevant District Court and the Order of the Adjudicator shall be deemed to be a decree to convey movable or immovable property entered by such court, and shall be binding on all parties concerned and may be enforced in the same manner as a decree of such court. All further proceedings in the District Court in connection with such application shall be liable to stamp duty as if they were proceedings in an action for money recovery equivalent to the value of the movable or immovable property specified in such application:

Provided that where such amount exceeds one hundred and fifty thousand rupees, stamp duty shall be leviable as though such amount were one hundred and fifty thousand rupees.

(5) There shall be no appeal to the Court of Appeal from any order made by the Judge of a District Court in any proceeding taken under the preceding provisions of this section.

63. Section 66 of the principal enactment is hereby amended by the substitution of the of the word "allowance" with the word "maintenance".

64. The proviso to Section 66 of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

Provided that if the order not being an order for interim maintenance was made ex parte and the person against whom the order was made informs the Magistrate that he desires to have such proceedings before the Adjudicator reopened, the Magistrate shall release such person on the condition that an application for reopening the case shall be made before the Adjudicator not later than 30 days henceforth and on his executing a

bond in a reasonable sum conditioned for his appearance in the Magistrate's Court on a date to be fixed by the Magistrate, or if the application to reopen such proceedings is dismissed by the Adjudicator, within three days of the dismissal of such application whichever date is the earlier

If the proposal to enable legal representation is opted –

65. Section 74 of the principal enactment is hereby amended by the deletion of the word "No" at the beginning of the said Section and by the substitution of the word "An".

66. Section 79 of the principal enactment is hereby amended by substituting the words "and shall be liable on conviction to imprisonment of either description for a term not exceeding three years" with the words "shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or with both such fine and imprisonment"

67. Section 80(1) of the principal enactment is hereby amended by:

    a. the insertion of the words "of or above the age of eighteen years" immediately after the words "Every male Muslim"; and

    b. the repeal of the words "or has or attempts to have carnal intercourse,"; and

    c. the repeal of the word "and shall be liable on conviction to imprisonment of either description for any period not exceeding three years." and substituted with the words "and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty- five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or with both the such fine and imprisonment."

68. Section 80(2) of the principal enactment is hereby amended by:

    a. the substitution of the words "of or above the age of twelve years "with the words "of or above the age of eighteen years"; and

    b. the repeal of the words "or has or attempts to have carnal intercourse,"; and

    c. the repeal of the word "and shall be liable on conviction to imprisonment of either description for any period not exceeding three years." and substituted with the words "and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty- five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or with both the such fine and imprisonment."

69. Section 80(3) of the principal enactment is hereby amended by the repeal of the words "according to the Muslim law applicable to the parties thereto" in the enactment.

70. Section 81 of the principal enactment is hereby amended by the repeal of the words "and shall be liable on a first conviction to a fine not exceeding one hundred rupees, and on a second or subsequent conviction to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and such imprisonment" and substituted with the words "and shall on first conviction after summary trial before a Magistrate, be liable for a fine of not less than ten thousand and not exceeding twenty five thousand rupees and on a second or subsequent conviction to a fine of not less than ten thousand and not exceeding twenty five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or to both such fine and imprisonment." in the enactment.

71. Section 81 of the principal enactment is hereby amended by the repeal of the words "shall be liable on conviction to a fine not exceeding one hundred rupees or to imprisonment of either description for a term not exceeding six months or to both such fine and such imprisonment" and substituted with the words "and shall on conviction after summary trial before a Magistrate, be liable for a fine of not less than ten thousand rupees and not exceeding twenty five rupees or to imprisonment of either description for a term of not less than six months and not exceeding three years or to both such fine and such imprisonment" in the enactment.

72. Section 83 of the principal enactment hereby amended by the repeal of the words "and shall on conviction after summary trial before a Magistrate, be liable for a fine of not less than ten thousand rupees and not exceeding twenty- five rupees or to imprisonment of either description for a term of not less than six months and not exceeding three years or to both such fine and such imprisonment." and substituted with the words "and shall on conviction after summary trial before a Magistrate, be liable for a fine of not less than ten thousand rupees and not exceeding twenty five rupees or to imprisonment of either description for a term of not less than six months and not exceeding three years or to both such fine and such imprisonment" in the enactment.

73. Section of 84 of the principal enactment is hereby repealed.

74. Section 85 of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

    "Every person who willfully makes a statement that is false or misleading in any declaration, statement or entry required to be made or omits to disclose any particulars that are required to be included in any such declaration, statement or entry or otherwise furnished under the provision of this Act, shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty five thousand rupees or

imprisonment of either description for a term of not less than six months and not exceeding three years or with both such fine and imprisonment."

75. Section 86 of the principal enactment is hereby amended by the repeal of the words "shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one hundred rupees" and substituted with the words "and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty five thousand rupees or imprisonment of either description for a term of not less than one year and not exceeding three years or with both the such fine and imprisonment" in the enactment.

76. Section 87 of the principal enactment is hereby amended by the repeal of the words "shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees" and substituted with the words "shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty- five thousand rupees" in the enactment.

77. Section 88 of the principal enactment is hereby amended by the repeal of the words "shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees" and substituted with the words "shall be liable of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty- five thousand rupees" in the enactment.

78. Section 89 of the principal enactment is hereby amended by the repeal of the words "shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred rupees." and substituted with the words "shall be liable of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty- five thousand rupees" in the enactment.

79. Section 90 of the principal enactment is hereby amended by the repeal of the words "shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty rupees." and substitute same with the words "shall be liable of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty- five thousand rupees" in the enactment.

80. Section 91 of the principal enactment is hereby amended by the repeal of the words "shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty rupees" and substituted with the words "shall be liable of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than five thousand and not exceeding twenty- five thousand rupees" in the enactment.

81. Section 92 of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

    (1) Every person who, other than an Adjudicator, fails to comply with or acts in contravention of any provision of this Act or of any regulation, not referred to in the preceding sections in this Part, shall be guilty of an offence, and shall on

conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than five thousand and not exceeding twenty- five thousand rupees.

(2) An Adjudicator who fails to comply with or acts in contravention of any provision of this Act or of any regulation, not referred to in the preceding sections in this Part, shall on first conviction after summary trial before a Magistrate, be liable for a fine of not less than ten thousand and not exceeding twenty five thousand rupees and on a second or subsequent conviction to a fine of not less than ten thousand and not exceeding twenty five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or to both such fine and imprisonment."

82. Section 93(1) of the principal enactment is hereby amended by;

a. the repeal of the words "not exceeding twenty rupees" and substituted with the words "not less than One Thousand Five Hundred and not exceeding Ten Thousand rupees" in the enactment; and

b. the substitution of the word "Fifth Schedule" with the words "Seventh Schedule" in the enactment.

83. Section 93(2) of the principal enactment is hereby amended by the substitution of the word "defaulter" with the words "where the Adjudicator or the Tribunal sits, as the case may be," in the enactment.

84. Section 94 of the principal enactment is hereby amended by the repeal of the said section and the substitution, therefore of the following:

Section 94(1)- The Minister in charge of the Department of the Registrar General make regulation for or in respect of all or any of the following matters:-

(a) the qualifications and disqualifications applicable to persons holding office as Registrars of Muslim Marriages and the procedure for their selection, appointment, conduct and disciplinary control including inquiries into complaints against Registrars;

(b) the procedure to be followed by a Registrar of Muslim marriages upon receiving a declaration of marriage in terms of section 18 of the Act;

(c) the conditions to be satisfied for, and times in which, the marriage of Muslims may be registered;

(d) Subject to Section 2, the conditions subject to which the marriage of a male Muslim not domiciled in Sri Lanka with a Muslim woman domiciled in Sri

Lanka may be registered, being conditions relating to the prepayment of Mahr and deposit of money for maintenance of the woman and any child that may be born of the marriage;

(e) the fees chargeable by Registrars of Muslim Marriages for the registration of marriages, declarations of nullity and divorces, including stamp fees, and allowances payable to such Registrars and District Registrars (including allowances in reimbursement of the cost of travelling), and on any other account and the procedure for the issue of receipts for payments received by such Registrars and District Registrars;

(f) the manner and form in which registers of marriages, declarations of nullity and divorces, and other records and indexes are to be maintained by Muslim Marriage Registrars and District Registrars, and the inspection and supervision by the Registrar-General or a District Registrar of the office premises of Registrars of Muslim Marriages;

(g) the correction of clerical errors in registers of marriages, declarations of nullity and divorces and the imposition of penalties on Registrars in respect of such errors where they are due to negligence or willful disregard of the provisions of this Act or any regulations made there under; and

(h) all other matters which are required or authorised by this Act to be prescribed or which may appear to the said Minister to be necessary or expedient for the purpose of carrying out the provisions of this Act relating to the registration of marriages, divorces and orders of nullity and all matters incidental thereto.

(2) The Minister in charge of the subjects of Justice may, in consultation with the Judicial Services Commission, make regulations for or in respect of all or any of the following matters:-

(a) the utilization of court houses and connected offices of Adjudicators and the Tribunal, the code of conduct of Adjudicators and members of Tribunal and the officers and other staff;

(b) the procedure to be observed in cases before Adjudicators in regard to matters for which no express provision is made in the Act;

(c) supplementing the provisions of the principal Act regarding the service of processes to be issued by Adjudicators and the Tribunal;

(d) the nature and form of the books, registers and indexes to be maintained by the Adjudicators and the Tribunal;

(e) form and method of appeals to the Tribunal, places of sittings, and all matters incidental or appertaining to the hearing of such appeals and the recording of the verdict or decision of the Tribunal;

(f) the emoluments payable to the holder of the office of Adjudicator, Chairman of the Tribunal and members and the secretary of the Tribunal by way of salary and allowances (including allowances in reimbursement of the cost of travelling), and on any other account; and

(g) all other matters which are required or authorised by this Act to be prescribed or which may appear to the said Minister to be necessary or expedient for the purpose of carrying out the provisions of this Act by the Adjudicators and the Tribunal and all matters incidental thereto.

(3) Any form in the First Schedule and any rule in the Second, Third, Fourth Fifth, Sixth and Seventh Schedule may be rescinded, amended, modified or replaced, and any Schedule may be added to or replaced, by regulation made under this section.

(4) Every regulation made by the Minister under this section shall be published in the Gazette. If any provision of any regulation tabled in Parliament is disapproved by a majority of members of Parliament, such provision shall cease to have any legal force from the date of publication of notice of such disapproval is published in the Gazette, but without prejudice to any act or thing done or omitted in terms of the said provision." in the enactment.

85. Section 97 of the principal enactment is hereby amended by;

a. the insertion immediately after the definition of "appointed date" the following new definition:

"Child" means any marital or non-marital child who has not reached eighteen years of age.

b. the insertion immediately after the definition of the expression "District Registrar" the following new definitions:

"Dowry" means any sum of money paid, movable or immovable property given or promised to be given to a bridegroom or a bride in consideration of the marriage, prior to, at the time of, or even after, entering into the contract of

marriage, by the bridegroom or the bride, or any person on behalf of the bridegroom or the bride as the case may be.

"Iddah period"

If position 1 is opted the following wording to be adopted:

"a period of 90 days from the date of the dissolution of the marriage and if the order is appealed, from the date of the decision of the Board of Quazi or Court of Appeal or Supreme Court, as the case may be.

If position 2 is opted the following wording to be adopted:

"a period of 90 days from the date of the dissolution of the marriage or in the event of the death of the husband a period of 4 months and 10 days from the date of the death or in any event if the wife is pregnant such period shall be till child delivery and if the order aforesaid is appealed, from the date of the decision of the Board of Quazi or Court of Appeal or Supreme Court, as the case may be.

"Inhabitant of Sri Lanka" shall mean any person who inhabits or had been inhabiting Sri Lanka and shall be presumed to include any descendent of any such person or such descendent has acquired the citizenship or permanent residency of another country, unless it is established by unequivocal evidence that he or she has abandoned such inhabitancy.

c. The definition of the word "Kaikuli" is hereby amended by;

   i. the insertion immediately after the words "or other movable" the words "or immovable"

   ii. the insertion immediately after the words "or any other person" the words "on behalf of the bride" in the enactment.

d. By the insertion immediately after the definition of the word "kaikuli" the following new definitions:

"Mahr" means a mandatory provision that may take the form of money, movable or immovable property or any other thing of value given or promised

to be given by or on behalf of the bridegroom to the bride as a token of respect to her at the time of the marriage that is deemed to be her property.

"Mata'a" means a consolatory payment determined by court in the absence of any express agreement between the parties payable to a wife who is divorced by the husband under section 27 of this Act or under 28(1) of this Act upon proof of the matrimonial fault of the husband;

"Minister" as used in the Act shall refer to the Minister in charge of the subject that is specified in any particular section.

86. In the transitional provisions the following to be addressed

- Repeal of polygamy not to affect any cases pending before court at the time this amendment comes into effect and will only apply for marriages registered after the coming into effect of this amendment.

87. Savings provisions to give effect to the following change of nomenclature proposed

a. all reference to the term "Quazi" be substituted with Muslim Marriage and Divorce Adjudicator or Adjudicator, as the case may be.

b. Board of Quazi to be renamed Muslim Marriage and Divorce Tribunal or Tribunal, as the case may be.

c. All references to registrar to be re-written as "Registrar"

PART II

PART II

MUSLIM MARRIAGE AND DIVORCE AND OTHER MATTERS CONNECTED THERETO, TO BE ADMINISTERED THROUGH THE DISTRICT COURT

As aforesaid, in view of the decision of the Cabinet of Ministers to abolish the Quazi system and in order to facilitate the integration of the Muslim Marriage and Divorce system into the mainstream Judicial system, the Committee proposes that the Muslim Marriage and Divorce system be administered through the District Court, which exercises matrimonial jurisdiction at present or a Family Court to be established.

This Committee observes that The Marriage Registration Ordinance, The Kandyan Marriage and Divorce Act and the Muslim Marriage and Divorce Act are legislation relating marriage and divorce and/or family relations. At present, whilst the Muslim Marriage and Divorce Act is administered through the Quazi system, the Kandyan Marriage and Divorce Act is administered through the District Registrars. The Marriage Registration Ordinance is, however, administered through the District Court. This Committee observes that a Family Court system, with improved access, inquisitorial processes and constructive approaches to dispute resolution is established, enabling all the aforesaid legislations to be administered in an equal and accessible manner through the said Family Court with trained and skilled Judicial Officers and staff. Accordingly, this Committee urges that such a Family Court system be established as a priority.

The Committee observed during its discussions and deliberations, that in view of the abolition of the Quazi system and other amendments suggested with regards the substantive law of the MMDA, it is advisable to repeal the MMDA and introduce a Muslim Marriage and Divorce Act, anew.

The Committee advises to adopt the reforms and/or the amendments proposed under Part I, with necessary adjustments to be administered through the District Court. For ease of reference the said matters as specified in detail in Part 1, is set-out very briefly hereinunder, as well;

1. Scope and Applicability of Muslim Marriage and Divorce Law

As per Section 2 of the MMDA, the MMDA apply only to 'the marriages and divorces, and other matters connected therewith, of those inhabitants of Sri Lanka who are Muslims'. The Committee observes that accordingly, an inhabitant of Sri Lanka cannot get married, under this Act, to another who is not an inhabitant of Sri Lanka.

However, the Committee takes note that the Marriage Registration Ordinance (also known as the "General Marriages Ordinance") does not place such restriction. Accordingly, the Committee advises that the Muslim Marriage and Divorce Act be synchronized with the Marriage Registration Ordinance by introducing a new Section 2. It is also recommended that "Inhabitant of Sri Lanka" be defined in the interpretation section.

Civil Procedure Code in chapter XLII sets up the procedure to be followed in Matrimonial Actions. The Committee observes that, however, section 627, under the said chapter, stipulates that nothing in the said chapter applies to any marriage between persons professing Islam (Muslim).

In the event, the new Muslim Marriage and Divorce Act is to be administered through the District Court the procedure set up in chapter XLII will apply, and it becomes necessary to remove the said restrictions placed by section 627. Accordingly, this Committee recommends that Section 627 of the Civil Procedure Code be amended by deleting the words "and the Muslim Marriage and Divorce Act (Chapter 115)" and the words "to any marriage between persons professing Islam or".

2. Pre-Nuptial Agreement or Marriage Contract

A prenuptial agreement or a Marriage Contract is one which is entered prior to the marriage which enables parties to select and control many of the legal rights acquired upon marriage. When such contract is made, the provisions of the said contract will prevail over the default matrimonial or other laws, relating to matters specified in the contract that would otherwise apply in the event of divorce or death. The contract will provide certainty and clarify their marital rights.

Taking into consideration the positive factors, the Committee unanimously agreed to recognize the same under the Act. Provision will be made in Form IV to record existence of such contract.

3. **Solemnization and Registration of Marriage**

The Committee observes that a considerable number of marriages in the Muslim Community are only solemnized (Nikkah) but not registered. This has led to numerous administrative issues. Accordingly, this Committee recommends that solemnization be recognized and both solemnization and registration be required for a valid Marriage under the MMDA. It is also recommended that the person solemnizing be required to sign the marriage register and the failure and/or refusal to do so, be made an offence.

4. **Age of Marriage**

As stated above, the Cabinet of Ministers had decided that the minimum age of marriage for both parties be 18. Accordingly, an appropriate section shall be incorporated in the Act.

In view of the above this Committee proposes that the relevant Advisory Committee consider amendment to Section 363(e) of the Penal Code, by deleting the second part of the said Section, that reads as 'unless the woman is his wife who is over twelve years of age and is not judicially separated from the man' to ensure consistency and coherence of the law.

5. **Abolition of polygamous Marriages**

As stated above, the Cabinet of Ministers at its meeting held on 08.03.2021, had decided to prohibit polygamous marriages of Muslim males. Accordingly, an appropriate section shall be incorporated in the Act.

6. **Consent of the bride to the Marriage and the signature on Marriage Register**

The Cabinet had granted approval to introduce provisions into the MMDA, to obtain the consent of the bride for the marriage and to obtain the signature on

the Marriage Register. Accordingly, appropriate section shall be introduced in the Act and provisions will be made in the relevant forms to enable to obtain and record such consent and the signature of the bride, by the Marriage Registrar.

7. Wali (Marriage Guardian of Bride)

At present, the Wali gives the bride in marriage and signs the Marriage Register, in lieu of the Bride. In view of the Cabinet decision to introduce provisions to obtain the consent and the signature of the Bride on the Marriage Register, for a valid marriage, the said role of the Wali recedes to the background. In the said backdrop, the Committee observes that the role of the Wali cannot be made mandatory for a valid marriage under the MMDA. Accordingly, the Committee is unanimous in proposing that the role of the Wali be made not mandatory.

However, on the question of whether the said role can be optional, two different positions were expressed by the members of the Committee.

Position 1:

The members Safana Gul Begum and Ermiza Tegal proposed that the Consent and the signature of the Wali, for a bride to enter into marriage and the reference to Wali in the Marriage Register, be removed altogether from the MMDA. The reasons for the said position are enumerated in part one.

Position 2:

Chairman, Shabry Haleemdeen and the members SMM Yaseen, ABM Ashraf, Sheik M Arkam Nooramith, MAM Hakeem, Sheik Muiz Buhary and Naamiq Nafath subscribed to position that the Consent and signature of the Wali, for a bride to enter into marriage and the reference to Wali in the Marriage Register be made optional, at the instance of the bride. The reasons for this position too are enumerated in Part I.

In view of the said different positions, Form III and IV will be provided with spaces for the signature of the Wali. In the event position 1 above is opted the said spaces provided be removed.

8. **'Kaikuli', 'Mahr' and 'Money and property given in consideration of the marriage'.**

The concepts of Kaikuli and Mahr had been identified in the MMDA. However, even though giving dowry which refers to 'money and property given in consideration of the marriage' is widely in practice, the same had not been identified in the MMDA. Accordingly, the Committee will introduce appropriate provision to incorporate the same, in the Act.

Further, the committee recognizes that in order to ease the process of recovery of Kaikuli, Mahr and 'Money and property given in consideration of the marriage' in consideration of the marriage at the dissolution of the marriage. In the said premise the Committee advises that provisions also be made to record such transactions in the Marriage Register or such other list be appended to the said Marriage Register. The terms 'Money and property given in consideration of the marriage' and 'Mahr' be defined in the interpretation section.

9. **Types of Divorces and Nullity of Marriage**

The Committee, taking into consideration the types of divorces available in Islamic jurisprudence and in order to ensure that the procedure for divorce is equal to both genders, in terms of the burden of proof and process, unanimously proposes that the following types of divorces be recognized.

a. **Divorce by mutual consent –**

Both parties mutually agree and give consent for divorce. Reasons for the divorce need not be given. An order for divorce will be entered and such order cannot be subjected to an Appeal.

b. **Divorce without consent of the other and without disclosing any matrimonial fault –**

One party can apply for divorce without the consent of the other and without disclosing any matrimonial fault. In view of the fact that the party initiating is advantaged as no matrimonial fault has to be specified and as it could adversely affect the other party, the Committee proposes that compensation

which is just and equitable, in the circumstances, be ordered to be paid by the party initiating the divorce to the other. In addition, mata'a (hereinafter morefully specified), if any, and/or maintenance to the children, if any, as the case may be, too be ordered prior to the dissolution of the marriage. Further, the Court shall be satisfied that the said compensation ordered, is in fact, paid prior to entering of judgment of dissolution of marriage.

c. **Divorce on matrimonial fault –**

The grounds for this type of divorce have to be specified. A party will be entitled to initiate divorce proceedings under any one or more such grounds and has to establish the same in terms of the law.

d. **Nullity of Marriage –**

Any marriage entered into by and between persons designated to be of 'prohibited degree of relationship' and/or where one or both parties to the marriage is/are minors and/or where either party contracted the marriage under a false name or names and/or where either party was not a Muslim and/or where the marriage has not been consummated, can be declared a nullity, after due consideration. A new section with this substantive position be introduced.

10. Mata'a (Alimony or Consolatory Payment)

The concept of Mata'a is one which is enshrined in the Islamic Jurisprudence. This has received attention in the Superior Courts of Sri Lanka as well. However, it is observed awarding of Mata'a has been rejected by the said Courts on the basis that the MMDA does not have any provision permitting the awarding of Mata'a. In the said backdrop, the Committee is unanimous in advising that required amendments be introduced to permit to order Mata'a at the time of dissolution of marriage.

The Committee notes that cases pertaining to Mata'a are pending the Appellate forums. In order to assure the amendments herein proposed are considered in arriving at decisions in such cases the Committee recommends that the section relating to Mata'a is made to apply retrospectively from the date of the principal Act as amended, without prejudice to any decision of a Quazi, the Board of Quazis, the Court of Appeal or the Supreme Court, that may have been already and finally made. The word Mata'a is defined in the interpretation section.

11. Maintenance

Since this law is to be administered through the District Court, the Committee proposes that jurisdiction to order maintenance too be granted to the same Court, without depriving ones right to invoke the provisions of the Maintenance Act of 1999.

In view of the abolition of the Quazi system, essentially Section 48 of the MMDA will have to be done away with. This will enable Muslims too, to invoke the provisions of the Maintenance Act.

12. Custody

The Committee observed that even at present, matters relating to custody and access are administered through the District Court, but under the provisions of the Judicature Act. The Committee is, accordingly, inclined on introducing provision in this Act itself, for custody and access.

13. Reference to 'Sect' in the MMDA

In order to establish certainty of the Law, the Committee was of the view that no further room should be left for any reference to any Sect and that this Act should provide for all matters pertaining to Marriage, Divorce and other matters related thereto. In Part I, the reasons have been explained for such view.

14. Offences and penalties

It was observed that the penalties prescribed in the present Act are insufficient and ineffective as at date. The Committee was of the view that the penalties prescribed should be aimed at prevention of the commission of the offence. Accordingly, the Committee decided to propose enhance the prescribed penalties.

15. Interpretation Section

As many a reforms and/or amendments and/or terms have been incorporated in this Act the necessity has arisen to define certain terms in the Interpretation section and the same will be done accordingly.

With regard to interpretation of the word '*Iddah* period'

Members Safana Gul Begum and Ermiza Tegal propose the following:

> *"a period of 90 days from the date of the dissolution of the marriage and if the order is appealed, from the date of the decision of the High Court of the Provinces exercising civil appellate and revisionary jurisdiction or Supreme Court, as the case may be.*

Chairman Shabry Haleemdeen, SMM Yaseen, MAM Hakeem, Naamiq Nafath, ABM Ashraf, Sheik M Arkam Nooramith and Sheik Muiz Bukhary propose the following:

> *"a period of 90 days from the date of the dissolution of the marriage or in the event of the death of the husband a period of 4 months and 10 days from the date of the death or in any event if the wife is pregnant such period shall be till child delivery and if the order aforesaid is appealed, from the date of the decision of the High Court of the Provinces exercising civil appellate and revisionary jurisdiction or Supreme Court, as the case may be.*

16. Casus Omissus

In view of the fact that this Act is going to be administered through the District Court, the Committee thought it expedient that the procedure laid down in the Civil Procedure Code be adopted, in instances where no specific provision is made in this Act.

17. Transitional Provisions

In order to ensure that there is a smooth transition from the existing Quazi system to the District Court, it is important to permit the said Quazi system to continue for a reasonable period of time, till the cases initiated under the repealed Act and pending before such Quazis are concluded. Accordingly, this Committee proposes that the

said Quazis be permitted to function for one year from the date of the commencement of the new Act. The Quazis be required to conclude finally, all matters pending within the said one year and in terms of the repealed Act. In the event any Quazi fails to conclude matters pending before him, the same shall be made an offence and shall on conviction after summary trial before a Magistrate, be made liable for a fine of not less than Rs. 100,000.00. In the unlikely event of cases still pending, even after one year from the commencement of the new Act, the said cases will stand terminated and the parties will have to seek redress under the new Act. The Committee observes that it may be necessary for the Judicial Service Commission and the Ministry of Justice to take measures to support and assist the Quazis to review and conclude the pending cases within the said period of one year.

This Committee is inclined, in any event, on proposing that any applicant in any proceeding before a Quazi, commenced prior to the date of commencement of the new Act, be permitted, if such party desires, to withdraw such proceeding and to commence anew under the new Act.

Similarly, the Board of Quazis be permitted to function for two years from the date of the commencement of the new Act. The said Board be required to conclude finally, all matters pending and/or which may arise out of the Orders of the Quazis made within the aforesaid one year, within the said two years and in terms of the repealed Act.

18. Muslim Marriage Conciliators

The role of the Marriage Conciliator is envisioned as providing the opportunity for parties to explore the possibility of reconciliation over the matrimonial disputes faced, before they actually initiate proceedings in Court. This process will offer an official platform to the parties to engage in a reconciliatory process under the guidance and supervision of a qualified Conciliator. The parties may have the opportunity to iron out their differences and reconcile the marriage relationship. This Committee proposes appropriate provisions be enacted introducing the same. This would be a role similar to that of the Family Counselor under the Judicator Act.

The MMDA in its current form, in Section 47(1) (h) provides for consideration of "any application for mediation by the Quazi between a husband and wife". In continuing this role and in order to ensure that parties are able to access mediation immediately from the point of the commencement of the new Act, this Committee proposes that provision be made to empower the existing Quazis, in addition, to act as Marriage Conciliators within the said one year transitional period.

Any vacancy arising during the said one year period be filled, to be effective only till the expiry of the said one year, with individuals possessing the qualifications as hereinafter set out in the new Act.

Once the terms of the said Quazis expire after one year from the date of the commencement of the new Act, an appropriate number of individuals, with required qualifications as set-out in the new Act, are appointed by the Judicial Service Commission as Marriage Conciliators.

A Form on which the party could initiate the said process of reconciliation before such Quazi/Conciliator be introduced. The Quazi/Conciliator will guide and supervise the parties to explore the possibility of reconciliation within a stipulated time or within an extended time, when the parties request for extension. At the end of the said reconciliation process, the Conciliator will record a statement of the particulars of the said final outcome of the reconciliation process, in Form VI in the First Schedule and terminate proceedings.

With regards as to whether the said reconciliation process before the Conciliator be made mandatory or otherwise, prior to initiating divorce proceedings in Court, the members of the Committee subscribed to two different positions.

Position 1

The Chairman Shabry Haleemdeen, MAM Hakeem, Naamiq Nafath ABM Ashraf, Sheik M Arkam Nooramith and Sheik Muiz Bukhary subscribed to the position that any party desirous of initiating proceedings for divorce under the Fourth Schedule (divorce without disclosing matrimonial fault) and Fifth Schedule (divorce on the grounds of matrimonial fault) shall attend the said reconciliation process, first. This will ensure that every party desirous in pursuing a dissolution of marriage will receive proper guidance and counselling with regards reconciliation. This proposition finds roots in the Islamic jurisprudence where parties are required to attempt to reconcile the marriage relationship. Accordingly, attending such process and appending the said Form VI shall be a condition precedent for initiating divorce proceedings in Court.

Position 2

Members Safana Gul Begum and Ermiza Tegal proposed that the said process of reconciliation be made optional at the discretion of the parties and the same not be made a condition precedent for initiating proceedings for dissolution of the

marriage in Court. The parties will be free to avail themselves of the services of the Marriage Conciliator. It is believed that if the role of conciliation is made optional, the same would emphasize choice and voluntarily nature of the proceedings, thereby strengthening and facilitating success in dispute resolution. Mandatory conciliation is known to defeat the purpose of mediation. It would exert undue pressure on parties, who are subject to violence within relationships, and there is a reasonable concern that parties who wish to pursue legal proceedings, often times as a last resort, maybe shut out of initiating legal proceedings owing to prejudicial purported 'settlement' decisions.

19. Premarital counseling

Premarital counseling is a type of therapy that helps couples prepare for the marriage. Through sessions of therapy, it helps ensure that the couple develops a strong, healthy relationship affording a stable and satisfying marriage. This kind of counseling assists the couple to identify strengths and also weaknesses that could become problems during the marriage. Further, it helps the couple improve their ability to communicate, set realistic expectations for marriage and develop conflict-resolution skills. Premarital counselling also helps in developing a positive attitude towards seeking help later on, when the couple is faced with issues, problems and/or disputes during the marriage.

This Committee observes that marriage is considered in Islam a sacred contract which binds the parties with their moral and civic duties and responsibilities. It is further noted that many a jurisdictions throughout the world, have provided for premarital counselling, which has a positive effect on the marriage relationship. However, the infrastructure, the facilities qualified, skilled and trained staff are essential factors for the said process to be a success. This Committee strongly proposes that serious attention be drawn to the said concept, setup the infrastructure and the other essentials, and introduce such services at the earliest convenience.

CONCERNS ARISING OUT OF THE SHIFT TO THE DISTRICT COURT WHICH WILL HAVE TO BE CONSIDERED AND ADDRESSED

The Committee during its discussions and deliberations observed that the shift from the Quazi system to the District Courts may result in certain aspects of access currently available, such as no significant / prohibitive litigation cost, language of proceedings, easy access to a Quazi as against a Court, being significantly affected. To ensure that access to justice is not negatively impacted, these factors will need to be addressed. Indeed, some or all of these factors may apply in general for all family law cases in Sri Lanka.

It must be also noted that abolishing the Quazi system does not reflect the recommendations made and sought in relation to the MMDA reform by those most affected in the Muslim community.

A significant concern is that, with the abolition of the Quazi system, a vacuum will be created at a community-level for matrimonial and family disputes, which may be filled by informal structures or unregulated mechanisms that will not have oversight on or accountability to the State. Such systems could be detrimental and result in injustices and harm to women and children of exactly the sort that the MMDA reforms were seeking to prevent. In such event the decision to abolish the Quazi system may fail to satisfy the objective of law reform - that it should be for the benefit of the people.

In the transition from Quazi system to the District Court, particularly in the absence of an established Family Court mechanism, it is important that the authorities ensure that necessary support to potential litigants is provided. Few of such identified matters would be:

1. Providing wide awareness on the instant law reforms.

2. Providing informational material on accessing family law justice.

3. Make provision for a robust legal aid scheme for family law matters.

4. Ensure that all courts have staff adequately literate in the Tamil language.

5. Establish a research unit to monitor all family law cases to ensure, that access to justice concerns are regularly studied and administrative or legal

measures are developed to respond the said concerns. The law must ideally be responsive, particularly in such matters.

In the said backdrop, the Committee very humbly urges the Hon. Minister to give due consideration to all these matters in finally determining matters.

THE MARRIAGE AND DIVORCE (MUSLIM) ACT NO. ?? OF 2021

Texts in Grey are used hereinafter where members of the Committee had taken 2 different positions with regards a matter. The position opted by the Hon. Minister shall accordingly, be adopted.

(TO BE ADMINISTERED THROUGH THE DISTRICT COURT)

Be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka, as follows;

1. This Act may be cited as the Muslim Marriage and Divorce Act, No. …… of 2021

New Section in MMDA to be enacted	Section in MMDA to be repealed		
Section 2 Application of Act.	Sec 2 as amended	(1)	This Act applies to marriages, divorces and other matters connected therewith, of persons professing Islam (hereinafter referred to as "Muslims"), at least one of whom is an inhabitant of Sri Lanka.
			PRELIMINARY
Section 3 Supervisory powers of Registrar-General and District Registrars	Sec 3		The Registrar-General shall, subject to the directions of the Minister, have the general control and superintendence of the registration of marriages and divorces under this Act, and every District Registrar shall, subject to the directions of the Registrar-General, have the control and supervision of the registration of such marriages and divorces within his district.
Section 4 Registrars of Muslim	Sec 8 (7) as amended.	(1)	The Registrar-General may, on application made in that behalf, appoint as a Registrar of Muslim Marriages any Muslim who, in the opinion of the Registrar-General, is a fit and

Marriages

proper person to register marriages under this Act, and may, on payment of the prescribed fee, issue to such person a certificate of appointment.

(2) The number of Registrars that may be appointed under this section for any district shall be in the discretion of the Registrar-General.

(3) Every certificate of appointment under this section shall be made out in foil and counterfoil, substantially in form I set out in the First Schedule, and shall specify the particular area in which the person named in the certificate is authorized to register marriages under this Act.

(4) The prescribed fee for a certificate of appointment under this section shall be paid in stamps, which shall be supplied by the applicant and shall be affixed to the counterfoil and duly cancelled by the Registrar-General.

(5) A list of the registrars appointed under this section shall be made and preserved in the office of, the Registrar-General,

(6) Every registrar appointed under this section shall reside within the area specified in his certificate of appointment as the area in which he is authorized to register marriages.

(7) The Registrar-General may, in his discretion, by order cancel any appointment made under this section and recall the certificate relating to such appointment.

(8) A person shall be disqualified from being appointed or continuing as a Registrar, if he:-

(a) becomes a Member of Parliament; or

(b) becomes a Member of a Provincial Council; or

(c) becomes a Member of a local authority; or

(d) is holding any paid office under the Republic; or

(e) is engaged in a profession that would prejudicially affect the duties of a Registrar.

(9) Where any Registrar becomes disqualified by virtue of subsection (8), the Registrar-General shall have the power to remove such person from the post of Registrar and recall the certificate relating to such appointment.

(10) In the event of a vacancy occurring in the post of Registrar as a result of any resignation or any removal from office, any other person shall, having regard to the provisions of section 4, be appointed to fill the vacancy.

Section 5 Temporary Registrars	Sec 9	(1) Where a Registrar appointed under section 4 is temporarily absent from the area in which he is authorized to register marriages or is temporarily incapacitated for the performance of his duties under this Act by reason of illness or by any other sufficient cause, or is dead or has resigned or retired from office, the District Registrar may issue a certificate of appointment to any other fit and proper Muslim to act as a temporary Registrar in place of the aforesaid Registrar for such period as may be specified in the certificate.

		(2)	Every certificate of appointment issued under this section shall be free of stamp duty and shall be valid only for the period specified therein.
Section 6 Special Registrars	Sec 10	(1)	Whenever there is a special necessity for the appointment of a Registrar otherwise than under section 4 or section 5, the Registrar-General may, on application made in that behalf, appoint as a special Registrar any Muslim who, in the opinion of the Registrar-General, is a fit and proper person to register marriages under this Act, and may, on payment of the prescribed fee, issue to such person a certificate of appointment in the prescribed form.
		(2)	A special Registrar may be appointed under this section either for the whole of Sri Lanka or for a special area thereof but the exercise of the authority conferred by each appointment shall be limited to such cases or circumstances or be subject to such restrictions and conditions as may be specified by the Registrar-General in respect of that appointment.
		(3)	Every certificate of appointment issued under this section shall be made out in foil and counterfoil and shall specify the area for which the appointment is made and the cases or the circumstances in which or the conditions and restrictions subject to which the authority conferred by the appointment is to be exercised.
		(4)	The prescribed fee for a certificate of appointment under this section shall be paid in stamps, which shall be supplied by

		the applicant and shall be affixed to the counterfoil and duly cancelled by the Registrar-General. (5) A list of the special Registrars appointed under this section shall be made and preserved in the office of the Registrar-General, (6) A special Registrar appointed under this section shall not register any marriage in any case or in any circumstance other than the cases or circumstances, or otherwise in accordance with the conditions and restrictions, specified -in his certificate of appointment. (7) Any appointment made under this section may be cancelled, and the certificate relating thereto may be recalled, by the Registrar-General in his discretion with the approval of the Minister by Order published in the Gazette, and such removal shall take effect on the date specified in such Order
Section 7 Registration of marriages outside area of appointment.	Sec 11	Subject as hereinafter provided, no Registrar appointed under section 4 or section 5 shall register any marriage contracted outside the limits of the area specified in the certificate of appointment issued to such Registrar: Provided that the Registrar-General may in his discretion, on application made for that purpose in respect of any particular marriage in any area by either party to the marriage and on payment of the prescribed fee, authorize by letter a Registrar appointed for any other area to register that marriage.

		REGISTRATION OF MUSLIM MARRIAGES
Section 8 Validity of Muslim marriages.	Sec 16 as amended.	No marriage under this Act shall be valid unless it is solemnized and registered in terms of the provisions of this Act.
Section 9 Duty of causing marriages to be registered	Sec 17 as amended	(1) Every marriage contracted between Muslims after the commencement of this Act shall be registered, as hereinafter provided, immediately upon the conclusion of the solemnization connected therewith. (2) In the case of each such marriage, the duty of causing it to be solemnized and registered is hereby imposed upon the following persons concerned in the marriage :- (a) the bridegroom; and (b) the bride, and (c) wali, if any (If position 1 is opted these words to be removed) (3) For the purpose of causing the marriage to be solemnized and registered, it shall be the duty of the persons specified in subsection (2)- (a) To give to the Registrar information of the date on which and the time and place at which the solemnization is to take place, and to request such Registrar to attend the ceremony for the purpose of registering the marriage; and (b) Immediately upon the conclusion of the

			to in subsection (1), the Registrar shall enter, in Sinhala or in Tamil, a statement of the particulars of the marriage, in triplicate, that is to say, the original, the second copy (hereinafter referred to as the "duplicate"), and a third copy, in a marriage register, which he is hereby required to keep for that purpose substantially in Form IV set out in the First Schedule. The third copy shall bear an endorsement under the hand of the Registrar to the effect that it is issued under subsection (3).
		(3)	The prescribed fee shall be paid by the bridegroom.
Section 11 Entries of marriage to be signed and attested	Sec 19 as amended.	(1)	The statement of particulars entered in the register in respect of each marriage shall be signed in the original, the duplicate and the third copy, by- (e) the bridegroom; and (f) the bride; and (g) the Wali (If position 1 is opted these words to be removed) (h) the person who conducted the solemnization connected with the marriage; and (i) two witnesses, being persons present at the solemnization and registration; and (j) the Registrar.
		(2)	Where the Registrar has conducted the solemnization at any marriage, it shall be sufficient if the Registrar inserts in the

		Provided further that where a Registrar is required to attend as aforesaid at more than one place at the same time or on the same date, the Registrar shall be entitled to stipulate for a readjustment of the time or the date of any of the marriages concerned.
Section 14 Marriage during Iddat not to be contracted	Sec 22 as amended	No marriage contracted by a Muslim woman during her Iddat period shall be valid.
Section 15 Prohibited age of marriage	Sec 23 as replaced	No marriage contracted after the coming into force of this Act shall be valid unless both parties to the marriage have completed eighteen years of age.
Section 16 Second or subsequent marriages	Sec 24 as replaced	No marriage shall be valid where either of the parties thereto shall have contracted a prior marriage which shall not have been legally dissolved or declared void.
		MARRIAGE RECONCILIATION
Section 17 Appointment of Marriage Conciliators	New provision	(1) The Judicial Service Commission may appoint any Muslim suitably qualified and skilled in matrimonial dispute resolution, having good character and not below the age of twenty-five years and not over Sixty-five years to be a Marriage Conciliator. (2) The Judicial Service Commission shall appoint such number of Marriage Conciliators so as to ensure that at least one Marriage Conciliator is appointed within the territorial jurisdiction of each Court exercising matrimonial jurisdiction in Sri Lanka. (3) Every appointment of a Marriage Conciliator shall be notified in the Gazette. (4) The Judicial Service Commission may, in its discretion, cancel the appointment of any Marriage Conciliator by notification in the

		register the words "Registrar of Muslim Marriages" in the space intended for the signature of the person conducting the solemnization and signs the register in his capacity as Registrar. (3) The third copy shall forthwith, free of charge, be delivered or transmitted by post to the female party to the marriage by the Registrar.
Section 12 Marriages to be registered and numbered consecutively.	Sec 20	The marriages to be registered under this Act in the marriage register kept by each Registrar shall- (a) be entered, each on a page, on consecutive pages of that register, commencing with the first page for the first marriage to be registered; and (b) be numbered consecutively in that register, in the order of time in which the Registrar is called upon to register those marriages
Section 13 Attendance of Registrar at marriage	Sec 21	It shall be the duty of a Registrar appointed for any area under section 4 or section 5 to attend the solemnization of a marriage between Muslims within that area for the purpose of registering the marriage, on being required so to do by the bridegroom or the bride or the Wali, if any of the bride (if position 1 is opted these words should be removed) or the person by whom the solemnization is to be conducted: Provided that nothing in the preceding provisions of this section shall affect or be construed to affect the right of a Registrar to refuse to register any marriage sought to be registered in contravention of the provisions of this Act or of any regulation made thereunder.

Gazette.

(5) Every Marriage Conciliator shall, unless he or she earlier resigns or such appointment is cancelled by the Judicial Service Commission, hold office for such period as may be specified in the notification relating to such appointment.

(6) The Judicial Service Commission shall *inter alia*

(a) publish in the Gazette every notice of vacancy and set out therein the specific qualifications, skills required,

(b) supervise and monitor,

(c) provide appropriate training,

(d) inquire into any complaint in relation to disciplinary issues, and

(e) issue guidelines as necessary,

in relation to Marriage Conciliators.

Section 18

Application by parties for marriage conciliation

(If position 1 – marriage conciliation is mandatory, is opted)

(1) Where a party seeking dissolution of marriage, prior to initiating proceedings in court, shall make an application to the Marriage Conciliator in terms of the Second Schedule.

(2) The Marriage Conciliator shall thereafter follow the procedure laid down in the said Schedule.

(If position 2 – marriage conciliation is optional, is opted)

(1) Where a party seeking resolution of any matrimonial dispute before the Marriage

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		Conciliator may make an application to the Marriage Conciliator in terms of the Second Schedule.
	(2)	The Marriage Conciliator shall thereafter follow the procedure laid down in the said Schedule.
Section 18 Role of the Marriage Conciliator	(1)	It shall be the duty of the Marriage Conciliator to endeavour by all lawful means to facilitate an amicable and consensual settlement between the parties.
	(2)	Marriage Conciliators shall act independently and maintain confidentiality of proceedings before them.
Section 19 Marriage Conciliators to keep registers and records of matters.	(1)	Every Marriage Conciliator shall keep a register of all details of all applications with relevant reference numbers, records of all proceedings, decisions and the final outcome of the reconciliation process.
	(2)	Every Marriage Conciliator shall enter, in Sinhala or in Tamil, a statement of the particulars of the final outcome of the reconciliation process in Form VI set out in the First Schedule, in triplicate, the original which he or she is hereby required to keep, the second copy and a third copy.
	(3)	The Marriage Conciliator shall issue the second copy to the applicant and send the third copy on or before the fifth day of the month following that in which such Form was issued, to the Judicial Service Commission.
	(4)	The Marriage Conciliator shall at the request of any party or their authorized representative and upon payment of the prescribed fee, issue to that person a copy of any such document or of any entry therein, certified under his or her hand to be a true copy.

REGISTRATION OF DIVORCES

Section 20 Divorce by mutual consent and without disclosing matrimonial fault	New	(1) Every court in Sri Lanka having matrimonial jurisdiction is hereby declared competent to dissolve a marriage; (a) where either party to the marriage prefers an application for divorce by mutual consent in terms of the procedure laid down in the Third Schedule; or (b) where either party to the marriage prefers an application for divorce without disclosing matrimonial fault and without consent, in terms of the procedure laid down in the Fourth Schedule. (2) When an application is made in terms of subsection (1)(b) above, the Court shall order compensation to the party against whom the divorce is granted, Mata'a, if any, and/or maintenance, if any, respectively for the wife and for the children of the marriage, giving due consideration to the rules set out respectively in the Fourth Schedule and item 1 and 3 of the Seventh Schedules. (3) Upon being satisfied that compensation ordered is paid, grant the divorce and enter judgment accordingly.
Section 21 Divorce by disclosing matrimonial fault	New	(1) Where either party institutes an action for divorce from the other, on the grounds of ; (a) concealment of existence of incurable impotency or infertility of either party at the time of marriage; or

			(b) cruelty or ill-treatment; or (c) adultery; or (d) non-maintenance by the husband; or (e) disappearance of either party resulting in whereabouts not being known to the applicant for period exceeding 3 years; or (f) sentenced to imprisonment for a period of 7 years or more and such sentence is final; or (g) violation by either party of any term of the contract of marriage; or (h) any party to the marriage becoming a non-Muslim any time after the marriage; the procedure laid down in the Fifth Schedule shall be followed.
		(2)	Every court in Sri Lanka having matrimonial jurisdiction is hereby declared competent to dissolve a marriage on any such grounds.
Section 22 Nullity	New	(1)	Any person, who is a party to a marriage under this Act, may within a reasonable time present a plaint to the court having matrimonial jurisdiction within the local limits of the jurisdiction of which the wife resides praying that his or her marriage is declared null and void.
		(2)	Every such court is hereby declared competent to grant a declaration of nullity of marriage on any one or more of the following

grounds being a circumstance that existed at the time of the marriage that made the marriage a nullity:

(a) where either party are directly descended from the other; or

(b) where the female is the sister of the male either by the full or the half-blood, or the daughter of his brother or of his sister by the full or the half-blood, or a descendant from either of them, or daughter of his wife by another father, or his son's or grandson's or father's or grandfather's widow; or

(c) where the male is the brother of the female either by the full or the half-blood, or the son of her brother or sister by the full or the half-blood, or a descendant from, either of them, or the son of her husband by another mother, or her deceased daughter's or granddaughter's or mother's or grandmother's husband;

(d) where either party was not a Muslim at the time of the marriage;

(e) where a party is aggrieved by the other party contracting the marriage under a false name or names;

(f) where one or both parties to the marriage is/are minors;

(g) where both parties to the marriage agree that the marriage has not been consummated.

		(h) Where a marriage is contracted by a Muslim woman during her *Iddat* period (3) Where a marriage is declared a nullity in terms of subsection (2)(g), the wife of such marriage, does not have to observe a period of Iddah.
Section 23 Registrar of the Court to send copies of decree to Registrar General	New Adopted from amendments proposed by Family Law Committee proposal to MRO.	Where a marriage has been dissolved or where a marriage has been declared null and void, the Registrar of the Court which entered the judgment of divorce or judgment of nullity, shall send to the Registrar General two copies of the decree, once entered, certified by him to be true copies.
Section 24 Registration of decree	New Adopted from amendments proposed by Family Law Committee proposal to MRO. Form is added.	(1) The Registrar General shall register such decree in the form prescribed in Form VII or Form VIII of the First Schedule, as the case may be, in a register to be maintained, and shall send the extract of such entry certified by him to be a true copy together with a certified copy of the decree to the District Registrar of the District in which the Petitioner or Plaintiff, as the case may be, resides. (2) The Registrar General shall retain one certified copy of the decree.
Section 25 District Registrar to enter particulars of divorce or nullity of marriage in Register	New Adopted from amendments proposed by Family Law Committee proposal to MRO.	(1) The District Registrar concerned, shall enter the particulars contained in the copy of the decree sent by the Registrar General in a Register to be maintained by him for the purposes of registering decrees of divorce and of nullity of marriage, consecutively numbered, and shall file the copy of such decree sent by the Registrar General.

		(2) Any person may, on payment of the prescribed fee, inspect and obtain certified copies of extracts of such Register, during office hours.
Section 26 Power to register marriages and divorces omitted to be registered and to rectify errors in registration	Section 32	(1) Where a marriage or divorce contracted or effected on or after the 1st day of January, 1937, has not been registered or has been registered with erroneous particulars, it shall be lawful for either of the parties to the marriage or the divorce, or, where either of them is dead, for the issue or other lawful representative of any such party, to apply to the District Registrar of the district in which such marriage or divorce was contracted or effected to have such marriage or divorce registered or the erroneous particulars rectified, as the case may be. (2) On receipt of such application the District Registrar shall cause the officiating or other priest or Registrar before whom the marriage or divorce, as the case may be, was contracted or effected and any other persons whom the Registrar may consider it expedient to hear, to be served with a notice to show cause why such application should not be granted. If no sufficient cause is shown to the contrary and the District Registrar is satisfied, after hearing such evidence as may be adduced, that such marriage or divorce was in fact contracted or effected and that it has not been registered or has been registered with erroneous particulars, the District Registrar shall by order signed by such District Registrar direct the marriage or divorce to be registered or the erroneous particulars to be rectified, as the case may require. (3) To every application made under subsection (1), stamps of the prescribed value shall be affixed by the applicant.
Section 27 Powers of	Section 33	The powers conferred on a District Registrar under section 26 in relation to the rectification of erroneous particulars relating to a marriage or

District Registrar under Section 26 exercisable by Registrar General.			divorce, may be exercised by the Registrar-General.
Section 28 Mata'a	New	(1)	Where a marriage has been or is to be dissolved (a) where the husband applies for divorce in terms of section 20(1)(b), or (b) where the wife applies for divorce on the ground of any matrimonial fault of the husband in terms of section 21, the wife shall be entitled to *Mata'a*. (2) In determining the quantum of *Mata'a* to be awarded, Court shall *inter alia* take into consideration the matters set out under item 3 of the Seventh Schedule. (3) Where there is any dispute as regards the means of income of the husband, the burden of proving the same shall be on the husband. (4) Without prejudice to any decision of a Quazi, the Board of Quazis, the Court of Appeal or the Supreme Court, that may have already been made, the provisions in sub-sections (1), (2) and (3) above shall apply retrospectively to cases initiated under the repealed Act and pending (including cases that have been laid-by).
			MATTERS CONNECTED AND INCIDENTAL TO DIVORCE
Section 29	Sec 47 as amended.	(1)	Every court in Sri Lanka having matrimonial jurisdiction is hereby declared competent to

Claims on matters connected and incidental to divorce.

inquire into and make orders on matters within this section.

(2) Any party upon application made therefor either in the plaint or answer or by a petition supported by affidavit, may seek an order in respect of any one or more of the following matters:

a) any claim for maintenance or interim maintenance by or on behalf of a wife;

b) any claim for maintenance or interim maintenance and education by or on behalf of a child;

c) any claim by a divorced wife for maintenance until the registration of the divorce or during her period of iddat, or, if such woman is pregnant at the time of the registration of the divorce, until she is delivered of the child;

d) any claim for the increase or reduction of the amount of any maintenance;

e) an application for custody and/or access and/or interim custody and/or interim access;

f) any claim by a wife or a divorced wife for the recovery of Mahr;

g) any claim by a wife or a divorced wife for the recovery of *Kaikuli*;

h) any claim by either the husband or wife or divorced husband or divorce wife for the recovery of gifts in consideration of marriage;

i) any claim by a wife or a divorced wife for her lying-in expenses;

j) any claim by the wife for Mata'a;

k) any claim by either party for money, property movable or immovable, acquired during the subsistence of the marriage.

(3) In proceedings initiated in terms of Sections 20(1)(b) or 21, where orders in terms of subsection (1)(a), (b) or (e) are sought, Court shall make orders in relation to interim relief, if any, forthwith, and thereafter proceed to inquire into the main and/or other relief/s sought.

(4) In making an order for payment of maintenance under subsection (1)(a) or (b), such maintenance shall be ordered to be payable from the date on which the application for maintenance was made, unless the Court, for good reasons to be recorded, orders payment from any other prior date.

(5) In making an order in relation to a claim under subsection (1)(g) or (h) above, Court shall *inter alia* take into consideration the matters set out under item 2 of the Seventh Schedule to this Act.

(6) In making an order in relation to a claim made under subsection (1)(k) above, Court may order any such property be divided between the parties or be sold and the proceeds be divided between the parties, taking into consideration the matters set out in item 4 of the Seventh Schedule to this Act.

Section 30 Prescription on applications for mahr, kaikuli, money and property in consideration of marriage etc	Section 39 of MMDA	The time for the prescription or limitation of a suit or application in relation to claims preferred under Section 29(1) (c), (f), (g), (h), (i) and (k) shall not begin to run until the dissolution of the marriage by death or divorce, and such suit or application shall be maintainable if commenced within five years from the date of such dissolution of marriage.
Section 31 Concurrent jurisdiction of Magistrate Court over Maintenance.	New	Notwithstanding anything to the contrary in the preceding provisions, a child or a wife shall not be prevented from making an application, for maintenance, if any, in terms of the provisions of the Maintenance Act No. 37 of 1999. Notwithstanding anything to the contrary in the Maintenance Act No. 37 of 1999, a Muslim husband shall not have a right to claim for maintenance under the said Act.
		POWERS AND DUTIES OF REGISTRAR-GENERAL, DISTRICT REGISTRARS, REGISTRARS
Section 32	Sec 40 as amended	The Registrar-General or any District Registrar may inspect or cause to be inspected from time to time the books and registers required to be kept under this Act by the Registrars, and may hear any complaints respecting any such books or registers, or the conduct of any of the Registrars.
Section 33 Registrars to keep indexes of books and registers.	Sec 55 as amended	Every Registrar shall keep, in the prescribed form, a current index of the contents of every book and register kept by such Registrar, except where it is otherwise provided by regulation; and every entry in such index shall be made, so far as practicable, immediately after making an entry in the book or register.
Section 34	Sec 56 as	(1) Except in such cases or on such occasions as

Custody of registers, by Registrars.	amended.		may be prescribed or except on the orders of a competent court, no Registrar shall permit any other person to take possession or to have the custody of any register, book, or other document required to be kept by such Registrar under this Act.
		(2)	Every Registrar shall keep all registers, books, and indexes until they are filled up and shall then forward them for record to the District Registrar,
		(3)	Where a Registrar leaves the area for which the Registrar is appointed, or resigns office, or where such appointment is cancelled, the Registrar, or in the event of death, the Registrar's legal representative, shall forthwith deliver the Registrar's books, registers, and indexes to the District Registrar; and on failure of such delivery, the District Registrar shall take possession of them.
		(4)	No person other than a Registrar shall keep any book or register which is or purports to be a register of Muslim marriages, divorces or nullity, or any record of proceedings relating to divorces effected or purporting to have been effected by any other person, under the provisions of this Act or the Muslim Marriage and Divorce Act of 1951.
Section 35 Duty to send to District duplicates from marriage, divorce and nullity registers	Sec 58	(1)	The Registrar who registers a marriage shall detach the duplicate from the marriage register, and send such duplicate with the declarations under section 10(1), on or before the fifth day of the month following that in which the marriage to the District Registrar.
		(2)	Where a marriage is registered by a Registrar

		authorized under the proviso to section 7, the Registrar shall, in addition to complying with the requirements of subsection (1), send certified copies of the statement of particulars entered in the marriage register, of the declarations, and of the letter authorizing such Registrar to register the marriage, to the District Registrar having jurisdiction over the area in which the marriage is registered. (3) All duplicates and declarations sent to the District Registrar in accordance with the provisions of subsection (1) shall be forwarded to the Registrar-General who shall cause such duplicates and declarations to be filed and preserved in his office
Section 36 Registers and indexes to be open to inspection.	Sec 68 as amended.	The records of any proceedings pending before the Board of Quazis or before Quazi, and general registers and the books, registers and indexes of Quazis and Registrars, as the case may be, (whether kept under this Act or the Muslim Marriage and Divorce Act of 1951), shall be open to inspection at all reasonable hours upon the payment of the prescribed fee by any person applying for permission to inspect them; and the Registrar-General or a District Registrar or a Registrar shall, at the request of any person and upon payment of the prescribed fee, issue to that person a copy of any entry therein, certified under his hand to be a true copy.
Section 37 Records kept under earlier law to be open for inspection.	Sec 69 as amended.	All documents which were required to be kept under the Mohammedan Marriage Registration Ordinance of 1886, Muslim Marriage and Divorce Ordinance of 1929 which are in the custody of any District Registrar shall be open to inspection at all reasonable hours, upon the payment of the prescribed fee by any person applying for permission to inspect the same; and the District

			Registrar shall, at the request of any person and upon payment of the prescribed fee, issue to that person a copy of any such document or of any entry therein, certified under his hand to be a true copy.
Section 38 Fees chargeable by Registrars	Sec 59 as amended	(1)	Every Registrar shall be entitled to demand and to receive as his own remuneration a fee at the prescribed rate from the prescribed persons for the performance of each of his duties under this Act.
		(2)	Every Registrar shall keep posted in a conspicuous part of his office or residence, a table setting out, in Sinhala, Tamil and English, the fees prescribed for the performance of each of the duties of a Registrar under this Act.
			APPEALS
Section 36 Appeals	Replaces Sec 60 and 62	(1)	Any party who shall be dissatisfied with any judgment or order which is final is nature made under this Act may prefer an appeal to the relevant the High Court of the Provinces exercising civil appellate and revisionary jurisdiction against such judgment for any error in fact or in law.
		(2)	Any party who shall be dissatisfied with any order made under this Act may prefer an appeal to the relevant High Court of the Provinces exercising civil appellate and revisionary jurisdiction against such order for the correction of any error in fact or in law, with the leave of such High Court first had and obtained.
		(3)	Any party who shall be dissatisfied with any

		order or judgment made under this Act may prefer an application for revision to the relevant High Court of the Provinces exercising civil appellate and revisionary jurisdiction against such order or judgment for the correction of any error of law. (4) Chapters LVIII, LIX, LXI and LX of the Civil Procedure Code shall apply to every appeal, application for leave to appeal or application for revision preferred in terms of subsections (1), (2) and (3) above.
Section 40 Appeals from the Registrar-General's or District Registrars' orders.	Sec 61 as amended	Every order made by the Registrar- General refusing or cancelling or recalling a certificate of appointment under section 4 shall be subject to appeal to the Minister, and every order made by a District Registrar under section 26 shall be subject to appeal to the Registrar-General, and every such appeal shall be preferred before the expiry of a period of fourteen days after the date of the receipt of the copy of the order appealed by the party or parties concerned.
		GENERAL
Section 41 Registers and copies to be evidence.	Section 70 as amended.	Every book or register of a Registrar, and every general register, and every copy of every entry in any such book or register and every extract therefrom, certified under the hand of the Registrar-General or a District Registrar or a Registrar to be a true copy or extract, and every document referred to in section 33 and every copy of any such document or any entry in any such document certified under the hand of the District Registrar to be a true copy issued under section 11(3) and section 24 shall be prima facie evidence in all courts of the dates and facts contained or set out in such book, register, general register, copy or extract.

Section 42 Entry in the register of marriages or in the register of divorces to be best evidence	Sec 71 as. amended	A certified copy of the entry in the register of marriages kept under section 10 or in the register of divorces kept under section 24 of this Act or in any register heretofore kept under the Mohammedan Marriage Registration Ordinance of 1886, or under the Muslim Marriage and Divorce Registration Ordinance of 1929 or the Muslim Marriage and Divorce Act of 1951 shall be accepted and received in all courts as the best evidence of the marriage or divorce, as the case may be, to which the entry relates.
Section 43 Books, &c, to be supplied free	Sec 72	Blank books for registers and blank books for all other records required to be kept by Registrars shall be furnished free of charge by the District Registrar on the application of any Registrar.
Section 44 Damage of duplicate and original entries, and reconstruction of duplicate and original entries.	Sec 76 as amended.	(1) Where the original of any marriage or divorce entry made by a Registrar is lost, damaged, has become illegible or is in danger of becoming illegible, the Registrar-General may, if the duplicate is available, cause the missing document to be replaced by a copy of such duplicate, such copy being certified by the Registrar-General to be a true copy. Every such copy so certified shall replace the original and shall, for all purposes, be deemed to be the original of such entry. (2) Where the duplicate of any marriage or divorce entry made by a Registrar is lost, damaged, has become illegible or is in danger of becoming illegible, the Registrar-General may, if the original of such entry is available, cause the missing document to be replaced by a copy of such original, such copy being certified by the Registrar to be a true copy and countersigned by the District Registrar. Every such copy so certified and countersigned shall, for all purposes, be

		deemed to be the duplicate of such entry. (3) Where both the duplicate and the original of a marriage or divorce entry made by a Registrar are lost, damaged, have become illegible, or are in danger of becoming illegible, the provisions of section 13 of the Births and Deaths Registration Act shall, *mutatis mutandis*, apply to and in relation to the substitution of copies of such duplicate and original. Such copies shall replace the original and duplicate entries and shall, for all purposes, be deemed to be the original and duplicate entries, respectively.
Section 45 Correction of clerical errors in registers	Sec 77 as amended.	Any clerical error which may from time to time be discovered in any register or other document kept for the purposes of this Act or in any register or other document which was required to be kept under the Muslim Marriage and Divorce Act, 1951, under the Muslim Marriage and Divorce Registration Ordinance, 1929, or under the Mohammedan Marriage Registration Ordinance, 1886, may, after due inquiry, be corrected by the Registrar-General or by any person authorized in that behalf by the Registrar-General, in such circumstances and in accordance with such conditions and procedure as may be prescribed.
Section 46 Forms	Sec 78	For the purposes of this Act the forms set out in the First Schedule shall be used with such variations as may be necessary for any particular case.
		OFFENCES AND PENALTIES
Section 47 Penalty for destruction of registers	Sec 79 as amended.	Every person who- (a) willfully destroys or injures, or causes to be destroyed or injured, any record of

		proceedings, register, book, permit or other document kept or issued under this Act or under the Mohammedan Marriage Registration Ordinance, 1886, or under the Muslim Marriage and Divorce Registration Ordinance, 1929, or under the Muslim Marriage and Divorce Act, 1951, or (b) falsely makes, fabricates or counterfeits in whole or in part any such register, book, permit or document or any document, purporting to be a certified copy of any such register, book, permit or document, or part thereof or extract therefrom, or (c) willfully inserts any false entry in any such register, book, permit, document, or any certified copy thereof or extract therefrom, shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty-five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or with both such fine and imprisonment.
Section 45 Penalty for incestuous marriage	Sec 80 as amended.	(1) Every male Muslim of or above the age of eighteen years who enters into any contract purporting or intended to be a contract of marriage, with a woman who to his knowledge is- (a) his daughter or other lineal descendant; or (b) his mother or other lineal ascendant; or (c) his sister by the full or the half- blood ;

or

(d) the daughter of his brother or sister by the full or the half-blood, or a descendant from either of them; or

(e) the sister by the full or the half- blood of his mother, father, or other lineal ascendant; or

(f) his wife's mother or grandmother; or

(g) the daughter or granddaughter of his wife by another father; or

(h) his son's, grandson's, father's, or grandfather's wife or widow or divorced wife; or

(i) his wife's sister, while the marriage with the wife is in subsistence,

shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or with both the such fine and imprisonment.

(2) Every Muslim woman of or above the age of eighteen years who enters into any contract purporting or intended to be a contract of marriage with any man, knowing such man to be

(a) her son or other lineal descendant; or

(b) her father or other lineal ascendant; or

(c) her brother by the full or the half- blood ; or

(d) the son of her brother or sister by the full or the half-blood, or a descendant from either of them; or

(e) the brother by the full or the half- blood of her father, mother, or other lineal ascendant; or

(f) her husband's father or grandfather; or

(g) the son or grandson of her husband by another mother; or

(h) her daughter's, granddaughter's, mother's or grandmother's husband or widower or divorced husband.

shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or with both the such fine and imprisonment

(2) Nothing contained in this section or in any judgment or order given or made in any proceedings relating to an offence under this section shall be construed to make valid a marriage which would otherwise be invalid.

Section 49 Penalty for offences relating to marriage,	Sec 81 as amended.	Every person, (a) upon whom a duty is imposed by this Act to register a marriage or to cause a

divorce		marriage to be registered and who fails to register such marriage or to cause such marriage to be registered ; or (b) who aids or assists any Muslim to obtain or effect or register a divorce otherwise than in accordance with the provisions of this Act, or abets that offence in any other manner; or (c) who contravenes any of the provisions of section 31(1) or section 31(4), shall be guilty of an offence, and shall on first conviction after summary trial before a Magistrate, be liable for a fine of not less than ten thousand and not exceeding twenty five thousand rupees and on a second or subsequent conviction to a fine of not less than ten thousand and not exceeding twenty five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or to both such fine and imprisonment.
Section 50 Penalty for registering marriage in contravention of section 14 or section 15	Sec 82 as amended.	Every Registrar who knowingly registers, and every other person who aids or abets the registration of, any marriage in contravention of the provisions of section 14 or section 15 shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine of not less than ten thousand rupees and not exceeding twenty five rupees or to imprisonment of either description for a term of not less than six months and not exceeding three years or to both such fine and such imprisonment.
Section 51 Penalty for unauthorized	Sec 83 as amended.	Every person who not being a Registrar, registers or professes to register any marriage under this Act, shall be guilty of an offence, and shall on conviction

registration of marriage, divorce		after summary trial before a Magistrate, be liable for a fine of not less than ten thousand rupees and not exceeding twenty five rupees or to imprisonment of either description for a term of not less than six months and not exceeding three years or to both such fine and such imprisonment
Section 52 Penalty for making false statement in declaration	Sec 85 as amended.	Every person who willfully makes a statement that is false or misleading in any declaration, statement or entry required to be made or omits to disclose any particulars that are required to be included in any such declaration, statement or entry or otherwise furnished under the provision of this Act, shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty five thousand rupees or imprisonment of either description for a term of not less than six months and not exceeding three years or with both such fine and imprisonment.
Section 53 Penalty for breach of duty by Registrars	Sec 86 as amended.	Every Registrar who- (a) upon being required under this Act to register a marriage fails or refuses without reasonable cause to register that marriage; or (b) except in the cases referred to in section 7, registers any marriage contracted or effected outside the limits of the area for which the Registrar is appointed; or (c) having been appointed under section 6, registers any marriage in breach of the restrictions or conditions contained in his certificate of appointment; or (d) registers any marriage at which he or she was not present; or (e) willfully registers any marriage of a woman during her Iddat period; or

		(f) willfully neglects to carry out at or, in connection with the registration of any marriage any duty imposed upon such Registrar by section 10, section 11, or section 31; or (g) willfully contravenes any regulation made under this Act, shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty five thousand rupees or imprisonment of either description for a term of not less than one year and not exceeding three years or with both the such fine and imprisonment
Section 54 Penalty for failure to deliver registers & c to District Registrar	Sec 88 as amended.	Every person who refuses or omits to deliver any book, register, or index, to the District Registrar as required by section 31(3) and every person who is found without lawful excuse in possession of any book, register, or index, which is required by that section to be delivered to the District Registrar or to be taken possession of by the District Registrar, shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than ten thousand and not exceeding twenty five thousand rupees.
Section 55 Penalty for refusing to sign register or to provide necessary stamps	Sec 91 as amended	Every person who- (a) being required by or under this Act to sign the statement of particulars entered in a register in respect of any marriage, without good cause refuses or willfully neglects to do so; or (b) being liable under this Act to supply the stamp or stamps necessary for the payment of any prescribed fee, refuses or neglects to do

		so, shall be liable of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than five thousand and not exceeding twenty five thousand rupees.
Section 56 Penalty for failure by Quazis to conclude cases within a year of commencement of Act	New.	Every Quazi who fails to conclude all cases pending before him, within one year of commencement of this Act, shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate, be made liable for a fine of not less than Rs. 100,000.00.
Section 57 General Penalty	Sec 92 as amended	Every person who fails to comply with or acts in contravention of any provision of this Act or of any regulation, not referred to in the preceding sections in this Part, shall be guilty of an offence, and shall on conviction after summary trial before a Magistrate, be liable for a fine in a sum of not less than five thousand and not exceeding twenty five thousand rupees.
Section 58 Regulations	Section 94 as replaced.	(1) The Minister in charge of the Department of the Registrar General may make regulation for or in respect of all or any of the following matters - (a) the qualifications and disqualifications applicable to persons holding office as Registrars of Muslim Marriages and the procedure for their selection, appointment, conduct and disciplinary control including inquiries into complaints against Registrars; (b) the procedure to be followed by a Registrar of Muslim marriages upon receiving a declaration of marriage in

terms of section 10 of the Act;

(c) the conditions to be satisfied for, and times in which, the marriage of Muslims may be registered;

(d) Subject to Section 2, the conditions subject to which the marriage of a male Muslim not domiciled in Sri Lanka with a Muslim woman domiciled in Sri Lanka may be registered, being conditions relating to the prepayment of Mahr and deposit of money for maintenance of the woman and any child that may be born of the marriage;

(e) the fees chargeable by Registrars of Muslim Marriages for the registration of marriages, declarations of nullity and divorces, including stamp fees, and allowances payable to such Registrars and District Registrars (including allowances in reimbursement of the cost of travelling), and on any other account and the procedure for the issue of receipts for payments received by such Registrars and District Registrars;

(f) the manner and form in which registers of marriages, declarations of nullity and divorces, and other records and indexes are to be maintained by Muslim Marriage Registrars and District Registrars, and the inspection and supervision by the Registrar-General or a District Registrar of the office premises of Registrars of Muslim Marriages;

(g) the correction of clerical errors in

registers of marriages, declarations of nullity and divorces and the imposition of penalties on Registrars in respect of such errors where they are due to negligence or willful disregard of the provisions of this Act or any regulations made there under; and

(h) all other matters which are required or authorized by this Act to be prescribed or which may appear to the said Minister to be necessary or expedient for the purpose of carrying out the provisions of this Act relating to the registration of marriages, divorces and orders of nullity and all matters incidental thereto.

(2) Any form in the First Schedule and any rule in the Second, Third, Fourth, Fifth, Sixth or Seventh Schedule may be rescinded, amended, modified or replaced, and any Schedule may be added to or replaced, by regulation made by the Minister of Justice.

(3) Every regulation made by the Minister under this section shall be published in the Gazette and shall come into operation on the date of such publication or on such later date as may be specified in the regulation.

(4) Every regulation made by the Minister shall, as soon as convenient after its publication in the Gazette be brought before Parliament for approval;

(a) Any regulation shall when approved by Parliament be as valid and effectual as if it were herein enacted,

		(b) Any regulation which is not so approved shall be deemed to be rescinded as from the date of such non approval, but without prejudice to anything previously done thereunder. (5) Notification of the date of such approval or date from which any regulation is so deemed to be rescinded shall be published in the Gazette.
Section 59 Privacy of hearings	New	The court shall have regard to the provisions of Article 106 of the Constitution in proceedings of matters contained in this Act, and shall conduct proceedings as it may consider appropriate, including proceedings in camera or by excluding from court such persons as are not directly interested in the proceedings: Provided, however, that such exclusion shall not extend to any person identified by either party as being necessary.
Section 60 Saving of actions in civil courts.	Sec 95	Nothing contained in this Act shall be construed to prevent a husband or wife from bringing an action in a civil court against a third party for damages incurred by him or her in respect of any injury to his or her matrimonial rights.
Section 61 Cassus Ommissus	New	In any matter or question of procedure not provided for in this Act, the procedure laid down in the Civil Procedure Code shall in like matter or question be applied, if such procedure is not inconsistent with the provisions of this Act.
Section 62 Interpretations	Sec 97 as amended	In this Act, unless the context otherwise requires

"appointed date" means the .....day of .....202..;

"Child" means any marital or non-marital child who has not reached eighteen years of age.

"Compensation" means a consolatory payment by the party initiating proceedings under Section 20(1)(b), to the other.

"Court" means any court in Sri Lanka having matrimonial jurisdiction.

"District" means administrative district.

"District Registrar" in relation to any District, means the person appointed to be or to act as the District Registrar of Marriages of that District for the purposes of the Muslim Marriages and Divorce Act of 1951, and includes a person appointed to be or to act as an Additional District Registrar of that District;

"Money and property given in consideration of the marriage" means any sum of money paid, movable or immovable property given or agreed to be given to a bridegroom or a bride in consideration of the marriage, and the same is given prior to, at the time of entering into the contract of marriage, or soon thereafter, as agreed, by the bridegroom or the bride, or any person on behalf of the bridegroom or the bride as the case may be;

"*Iddah period*" means

If position 1 is opted, the following wording to

apply:

> *"a period of 90 days from the date of the dissolution of the marriage and if the order is appealed, from the date of the decision of the High Court of the Provinces exercising civil appellate and revisionary jurisdiction or Supreme Court, as the case may be.*

If position 2 is opted, the following wording to apply:

> *"a period of 90 days from the date of the dissolution of the marriage or in the event of the death of the husband a period of 4 months and 10 days from the date of the death or in any event if the wife is pregnant such period shall be till child delivery and if the order aforesaid is appealed, from the date of the decision of the High Court of the Provinces exercising civil appellate and revisionary jurisdiction or Supreme Court, as the case may be.*

"Inhabitant of Sri Lanka" means any person who inhabits or had been inhabiting Sri Lanka and shall be presumed to include any descendent of any such person or such descendent has acquired the citizenship or permanent residency of another country, unless it is established by unequivocal evidence that he or she has abandoned such inhabitancy;

"*Kaikuli*" means any sum of money paid, or other movable or immovable property given or any sum of money or any property promised to be paid or given to a bridegroom for the use of the bride, prior to, at the time of, or even after, entering into the contract of marriage, by a bride or any other person on behalf of the bride;

"lying-in expenses" means reasonable costs that a

woman has while pregnant to carry the baby, prepare for the birth of the baby and the costs of child delivery;

"*Mahr*" means a mandatory provision that may take the form of money, movable or immovable property or any other thing of value given or promised to be given by or on behalf of the bridegroom to the bride as a token of respect to her at the time of the marriage, that is deemed to be her property;

"*Mata'a*" means a payment similar to alimony payable to a wife who is divorced by the husband;

"prescribed" means prescribed by regulations made under this Act;

"Registrar" means a Muslim appointed under section 4 or section 5 or section 6 to register marriages under this Act;

"Registrar-General " means the person appointed to be or to act as Registrar-General of Marriages under section 2 of the Marriage Registration Ordinance, and includes a Deputy Registrar-General and an Assistant Registrar-General;

"Regulation" means a regulation made under this Act;

REPEAL AND SAVINGS

Section 63

(1) The Muslim Marriage and Divorce Act No. 13 of 1951 is hereby repealed.

(2) All appointments made under the repealed Act and subsisting at the date of commencement of this Act shall be deemed to be as appointments made under this Act.

(3) Appeals, prosecutions and other proceedings commenced before the commencement date of this Act shall continue and shall disposed in terms of the repealed Act or in terms of section 28(4) of this Act, as the case may be.

TRANSITIONAL PROVISIONS

Section 64

(1) Notwithstanding anything to the contrary in the preceding provisions, any applicant to any proceeding before the Quazi, commenced prior to the date of commencement of this Act, shall have the right to withdraw such proceeding and to commence under this Act.

(2) All Quazis appointed under the repealed Act shall continue to function for one year from the date of commencement of this Act and shall conclude finally, all matters pending within the said one year and in terms of the repealed Act or in terms of section 28(4) of this Act, as the case may be.

(3) All Quazis functioning under the repealed Act for the said period of one year shall also act as Marriage Conciliators, under this Act.

(4) In the event of any vacancy in the post of Quazi within the said one year, the Judicial Service Commission shall appoint a person who is a Muslim of good character, position, suitable attainments and suitably qualified and skilled in

matrimonial dispute resolution and not below the age of twenty-five years and not over sixty-five years to fill such vacancy, and such person shall act as a Quazi under the repealed Act and also as a Marriage Conciliator under this Act.

(5) Any party aggrieved by any final order or interim order, as the case may be, made by the Quazi under subsection (2) shall have a right of appeal or revision, as the case may be, in terms of the repealed Act.

(6) The Board of Quazis constituted under the repealed Act shall continue to function for two years from the date of commencement of this Act and shall conclude finally, all matters within the said two years and in terms of the repealed Act or in terms of section 28(4) of this Act, as the case may be.

(7) Any appeal, from any order of the Board of Quazis made under subsection (6), to the Court of Appeal and/or the Supreme Court shall be decided in terms of the repealed Act or in terms of section 28(4) of this Act, as the case may be.

(8) Any matter remitted back for re-hearing, by the Board of Quazis or the Court of Appeal or the Supreme Court, shall be inquired into by the court having matrimonial jurisdiction within whose territorial jurisdiction the area of the Quazi falls, as though such case had been instituted in such court, based on the brief of such Board of Quazis or the Court of Appeal or the Supreme Court, as the case may be, and in terms of the repealed Act or in terms of section 28(4) of this Act, as the case may be, after allocating a number on such brief.

FIRST SCHEDULE

FORM I

CERTIFICATE OF APPOINTMENT OF A REGISTRAR OF MUSLIM MARRIAGES AUTHORIZED TO REGISTER MARRIAGES

Counterfoil

No.

In pursuance of the powers vested in me by section 4 of the Muslim Marriage and Divorce Act, I ..... do hereby appoint .... of .... to be a Registrar of Marriages for the following area:.....

Sgd.
Registrar-General

Date:

(Stamp)

Original

No.

In pursuance of the powers vested in me by section 4 of the Muslim Marriage and Divorce Act, I..... do hereby appoint .... of .... to be a Registrar of Marriages for the following area:.....

Sgd.
Registrar-General

Date:

(Stamp)

FORM II

SECTION 10(1) (A) OF THE MUSLIM MARRIAGE AND DIVORCE ACT

DECLARATION BY BRIDEGROOM

I ..... (holder of NIC or Passport bearing No:..... .....), of..... .....(being the bridegroom) hereby give notice that a marriage is about to be solemnized and registered between ....(name of bride) and myself, and I further hereby solemnly declare that to the best of my knowledge and belief the several particulars entered below are true and correct and that there is no lawful impediment to the said marriage:-

1. Bridegroom's name in full:	
2. Bridegroom's date of birth and age on proposed date of registration:	
3. Bridegroom's NIC or Passport No:	
4. Residential address of bridegroom:	
5. If bridegroom was previously married: • If previous marriage has been dissolved by death, Death Certificate No. of previous spouse. • If previous marriage has been dissolved by divorce or nullity, the Case No. and date of order.	
6. Bride's name in full:	
7. Bride's date of birth and age on proposed date of registration:	
8. Bride's NIC or Passport No:	
9. Bride's residential address:	
10. If the bride and groom are already related,	

particulars of the relationship:	

Signature of Bridegroom

1st Witness

Name	
NIC or Passport bearing no.	
Address	

2nd Witness

Name	
NIC or Passport bearing no.	
Address	

We, the above described, 1st and 2nd witnesses do hereby certify that the aforesaid Bridegroom ..... who is known to us, placed his signature in our presence at .....(place of making declaration).

Signature of 1st witness Signature of 2nd witness

Signed before me, on this...day of..... 20.... at ..... (Place of making declaration).

Signature of Registrar of Muslim Marriages

FORM III

SECTION 10 (1)(B) OF THE MUSLIM MARRIAGE AND DIVORCE ACT

DECLARATION BY BRIDE

I .....(holder of NIC or Passport bearing No:.....), of..... .....(being the bride) hereby give notice that a marriage is about to be solemnized and registered between .... (name of bridegroom) and myself, and I further hereby solemnly declare that to the best of my knowledge and belief the several particulars entered below are true and correct and that there is no lawful impediment to the said marriage:-

1. Bride's name in full:	
2. Bride's date of birth and age on proposed date of registration:	
3. Bride's NIC or Passport No:	
4. Residential address of Bride:	
5. If the Bride was previously married: • If previous marriage has been dissolved by death, date of death and Death Certificate No. of previous spouse. • If previous marriage has been dissolved by divorce or nullity, the Case No. and date of order. • The period of Iddah to be observed, if any, has been completed.	
6. Bridegroom's name in full:	
7. Bridegroom's date of birth and age on proposed date of registration:	
8. Bridegroom's NIC or Passport No:	
9. Bridegroom's residential address:	
10. If the bride and groom are already related, particulars of the relationship:	

Signature of Bride

Signature of the Wali
(If the position that Wali is optional is opted)

1st Witness

Name	
NIC or Passport bearing no.	
Address	

2nd Witness

Name	
NIC or Passport bearing no.	
Address	

We, the above described, 1st and 2nd witnesses do hereby certify that the aforesaid Bride..... who is known to us, placed her signature in our presence at ..... (place of making declaration).

Signature of 1st witness

Signature of 2nd witness

Signed before me, on this...day of.....20.... at ..... (Place of making declaration).

Signature of Registrar of Muslim Marriages

FORM IV

THE MUSLIM MARRIAGE AND DIVORCE ACT
MUSLIM MARRIAGE REGISTER

1. District :		
2. Full name of Marriage Registrar registering the marriage:		
3. Address of Marriage Registrar:		
4. Reference No. of the Declaration made by the Bride:		
5. Reference No. of the Declaration made by the Bridegroom:		
6. Full name of the person solemnizing the marriage (if the solemnization is not conducted by the Registrar)		
7. Name in Full:	Bride:	Bridegroom:
8. Residential address:		
9. NIC No / Passport No:		
10. Civil status of parties to marriage at time of marriage:		
11. If any previous marriage has been declared a nullity particulars thereof and Case No. and date of order		
12. If previously divorced, particulars thereof including the Case No or Nos. and date of divorce order.		

13. Particulars of Mahr: Whether handed over or not:
14. Particulars of Kaikuli, if any, Whether handed over or not:
15. Particulars of gifts in consideration of marriage, if any, Whether handed over or not:
16. Have the parties entered into a marriage contract? Yes / No If yes, a copy of same to be attached.
17. Date, time and place where the solemnization took place:
18. Date, time and place where the registration took place:
19. Full name and residential address of 1st witnesses:
20. Full name and residential address of 2nd witnesses:
21. Signature of Bride
22. Signature of Bridegroom
23. Signature of Wali (If the position that Wali is optional is opted)
24. Signature of 1st Witness
25. Signature of 2nd Witness
26. Signature of person solemnizing the marriage:
27. Signature of person registering the marriage:

FORM V

THE MUSLIM MARRIAGE AND DIVORCE ACT
MARRIAGE CONCILIATION APPLICATION

Marriage Conciliator of .....(area)

Reference number .....
(To be filled by Marriage Conciliator)

1. Name of the Applicant:
2. Address of the Applicant:
3. Place of residence, if different from above:
4. Contact details of the Applicant:
5. NIC No / Passport No. of the Applicant:
6. Name of the Respondent:
7. Residential address of the Respondent:
8. Contact details of the Respondent:
9. NIC No / Passport No. of the Respondent:
10. Brief description / Nature of the dispute:
11. Date of application:
12. Signature of Applicant

FORM VI

THE MUSLIM MARRIAGE AND DIVORCE ACT
MARRIAGE CONCILIATION FINAL OUTCOME

Reference number .....

1. Name of the Applicant:
2. Address of the Applicant:
3. Name of the Respondent
4. Address of the Respondent
5. Date of Application for conciliation:
6. Matter is reconciled … / not reconciled … If reconciled, statement of particulars of final outcome:
7. Signature of a. Applicant (if present): b. Respondent (if present):
8. Marriage Conciliator Name: Address and Area: Signature:
9. Date:

FORM VII

THE MUSLIM MARRIAGE AND DIVORCE ACT
DIVORCE REGISTER

1. District :		
2. Court:		
3. Divorce Case No.:		
4. First Appeal Case No:*		
5. Second Appeal Case No.*		
6. Name in Full:	Bridegroom:	Bride:
7. Address in Full (as on date of registration of Divorce)		
8. NIC No / Passport No:		
9. Full name, area and district of person who conducted the solemnization and registrar of marriage:		
10. Number and date of registration of marriage:		
11. Nature of Divorce (under which section of Act):		
12. Court granting final order of divorce and date of relevant order of court:		
14. Names and ages of children from the marriage, if any:		
15. Date of registration of Divorce:		
16. Signature of a. Wife (if present):		

b. Husband (if present): c. Registrar

*To be included only where there had been an appeal or appeals

Payment of Mata'a	
Iddah maintenance	
Lying in expenses, if applicable	
Return of gifts in consideration of marriage, if applicable	
Return of Kaikuli, if applicable	
Recovery of unpaid Mahr, if applicable	
Any other matters	

(If there is a detailed agreement signed by the parties, the same may be attached)

We state further that we have no further claims without prejudice to any future rights that may accrue in relation to custody and maintenance of children in respect of this marriage.

*Strike off what is inapplicable

1.....

2 .....
(Signatures of declarants)

Before me at ..... on this .....day of ..... 20...

Signature of Justice of the Peace / Commissioner for Oaths

FORM X

THE MUSLIM MARRIAGE AND DIVORCE ACT

FORM TO BE APPENDED TO THE PETITION FOR DIVORCE UNDER FOURTH SCHEDULE

I, ...(name in full), of.....(address in full), (holder of NIC or Passport bearing No:.....), hereby declare that I married..... (name in full), who holds NIC or Passport bearing No:.....), of.....(address in full) on.....(date) within the District of....., in Sri Lanka, and the marriage was registered under the provisions of the Marriage and Divorce (Muslim) Act No. 13 of 1951 / Marriage and Divorce (Muslim) Act No. ?? of 2021*.

I further declare that we have no children* / the below named children* whose ages are stated against their names:

1.....(name) .....(age)

2.....(name) .....(age)

3.....(name) .....(age)

I propose the following terms in settlement of the following matters:

Compensation	
Payment of Mata'a	
Maintenance for child /children, if any	
Future affairs of the children, if any	
Lying-in expenses,	

if applicable	
Iddah maintenance	
Return of gifts in consideration of marriage, if applicable	
Return of Kaikuli, if applicable	
Recovery of unpaid Mahr, if applicable	
Any other matters	

*Strike off what is inapplicable

The above proposed settlement is made without prejudice to any future rights that may accrue in relation to custody and maintenance of children in respect of this marriage.

.....
(Signature of declarant)

The above was read and explained to)
the affirmant above named by me in)
.....(state language), who)
signed before me at .....)
on this .....day of .....)
20....)

.....
(Signature of Justice of Peace)

SECOND SCHEDULE

(If the position that the reconciliation is mandatory is opted)
PROCEDURE BEFORE THE MARRIAGE CONCILIATOR

1. Jurisdiction – Where the wife resides

2. Application – Application to be made in terms of Form V in the First Schedule.

3. Notice –

    I. Notice is to be served by registered post.

    II. In the event the same returns, notice is to be served through the Grama Niladari in the area where the Respondent resides.

4. Reconciliation –

    I. On service of notice when the Respondent appears in person or through proxy (with an affidavit of the Respondent), the Conciliator shall persuade the parties to reconcile and grant a period not exceeding 30 days, for the purpose.

    II. If, at the expiry of the said 30 days, either party requests for an extension of time the Conciliator shall grant a final period not exceeding 30 days.

5. At the expiry of the period/s of reconciliation specified in 5.I or 5.II, as the case may be,

    I. Both parties shall appear in person or through proxy (with an affidavit of the party) and inform the outcome of the said process;

    II. In the event

        (a) of reconciliation, where both parties inform the Conciliator that the parties have reconciled, or

(b) of non-reconciliation, where the Respondent fails to appear on notice or thereafter, or if both parties inform the Conciliator that they have failed to reconcile,

the Conciliator shall record in Form VI of the First Schedule a statement of the particulars of the said final outcome of the reconciliation process and terminate proceedings.

(If the position that reconciliation is optional is opted)

PROCEDURE BEFORE THE MARRIAGE CONCILIATOR

1. Jurisdiction – Where the wife resides

2. Application – Application to be made in terms of Form V in the First Schedule provided that the matter is not before Court.

3. Notice –

   I. Notice is to be served by registered post.

   II. In the event the same returns, notice is to be served through the Grama Niladari in the area where the Respondent resides.

4. Reconciliation –

   I. On service of notice when the Respondent appears in person or through proxy (with an affidavit of the Respondent), the Conciliator shall persuade the parties to reconcile and grant a period not exceeding 30 days, for the purpose.

   II. If, at the expiry of the said 30 days, both parties requests for an extension of time the Conciliator shall grant further period not exceeding 30 days, at a time.

5. At the expiry of the period/s of reconciliation specified in 5.I or 5.II, as the case may be,

I. Both parties shall appear in person or through proxy (with an affidavit of the party) and inform the outcome of the said process;

II. In the event

(a) of reconciliation, where both parties inform the Conciliator that the parties have reconciled, or

(b) of non-reconciliation, where the Respondent fails to appear on notice or thereafter, or if both parties inform the Conciliator that they have failed to reconcile,

the Conciliator shall record in Form VI of the First Schedule a statement of the particulars of the said final outcome of the reconciliation process and terminate proceedings.

THIRD SCHEDULE

DIVORCE BY MUTUAL CONSENT

1. Jurisdiction – Where the wife resides

2. Application – Either party may prefer an application by way of a Petition supported by an Affidavit, together with annexures. Form IX shall be appended thereto.

3. Procedure –

I. Upon preferring an application as aforesaid the court shall appoint a date not later than 2 months and require both parties to be present before court on such date.

ii. On the day both parties appear before court, in person or through an attorney, court may upon being satisfied that consent for divorce is voluntary, make such other orders in line with the agreement in Form IX, if any, and grant the divorce without calling for any further evidence and enter judgment.

FOURTH SCHEDULE

DIVORCE BY EITHER PARTY WITHOUT DISCLOSING FAULT

1. Jurisdiction – Where the wife resides

2. Application – Either party may prefer an application by way of a Petition supported by an Affidavit, together with annexures Form VI and Form X proposing the settlements, if any, offered by the party initiating proceedings shall be appended thereto.

3. Procedure –

   I. Upon preferring an application as aforesaid, the court shall appoint a date not later than 2 months and issue notice on the respondent.

   II. On the notice returnable date, where both parties appear in person or through an attorney, court shall inquire from the respondent as to whether settlement in terms of Form X as presented by the petitioner is acceptable to the respondent. If the respondent accepts the settlement in Form X, court shall grant the divorce and enter judgment in terms of the settlement.

   III. In the event, the respondent does not accept the settlement in Form X, but at the least accepts the proposed compensation, mata'a, if any, and maintenance for children, if any, the court shall make order for the payment of said compensation, mata'a, if any, and maintenance for children, if any, and upon being satisfied that the compensation ordered is paid grant the divorce and enter judgment.

   IV. In the event there is no acceptance on the proposed compensation, Mata'a, if any, and maintenance for children, if any, the court shall initially proceed to inquire and make order for the payment of said compensation, Mata'a, if any, and maintenance for children, if any, and upon being satisfied that the compensation ordered is paid grant the divorce and enter judgment.

   V. In awarding compensation, the court shall consider, *inter alia* the following rules:

a) the means including the income of the party preferring the application;

b) the duration of the marriage.

VI. The parties will have the right to prefer separate applications in relation to any matter coming under section 26(2) (a), (c), (d), (e), (f), (g), (h), (i), and (k) if claims in relation to same have not been determined by Court.

FIFTH SCHEDULE

DIVORCE BY DISCLOSING MATRIMONIAL FAULT

1. Jurisdiction – Where the wife resides

2. Application – Either party may institute an action by way of regular procedure as specified in the Civil Procedure Code.

3. Where the court is satisfied that sufficient evidence exists for the granting of a divorce, whether an application has been made therefore or not, the court may, taking into consideration the matters set out in item 1 of the Seventh Schedule hereto, make any order in respect of maintenance for children, if any, and shall declare the marriage dissolved and enter judgment.

4. The parties will have the right either to include any matter specified in Section 26 in the said plaint or prefer a separate application in relation to such matters.

SIXTH SCHEDULE

INQUIRIES RELATING ANY CLAIM UNDER SECTION 26

1. Jurisdiction – Where the wife resides

2. Application – Either party may include any one or more of the claims in Section 26 in the plaint or by way of petition and affidavit separately, as the case may be.

SEVENTH SCHEDULE

MATTERS TO BE CONSIDERED IN INQUIRIES RELATING ANY CLAIM UNDER SECTION 26

1. Matters to be considered in making an order in relation to interim maintenance, maintenance, access and custody

I. Court shall consider *inter alia* the following in making an order in relation to interim maintenance or maintenance

a. consider the financial standing of the father/husband

b. earning capacity of the husband/father

c. needs and necessities of the wife/children

d. social standing of the parties

II. Court shall make an order forthwith in respect of any application for interim maintenance or interim access or custody.

III. Court shall, in making an order in respect of maintenance and custody grant the highest priority to such matters so as to ensure that no prejudice is caused to the welfare of any child and no violence or threat of harassment is caused to any child.

2. Matters to be considered in making an order in relation to kaikuli or gifts in consideration of marriage

I. In an application for the recovery of Kaikuli or gifts in consideration of marriage, the court shall make an equitable order in relation to the money or property, movable or immovable, transacted or the value thereof, giving due consideration to all circumstances connected thereto.

3. Matters to be considered in making an order in relation to Mata'a

I. In making an order in respect of Mata'a, *inter alia* the following matters where relevant, shall be taken into consideration -

a. the means of the husband including his monthly income;

b. standard of lifestyle during the subsistence of the marriage;

c. the duration of the marriage;

d. the number of children falling within the custody and care of the husband and /or the wife.

4. **Matters to be considered in making an order in relation to money, property movable or immovable, acquired during the subsistence of the marriage**

I. In making an order in respect of money, property movable or immovable, acquired during the subsistence of the marriage, subject to a consideration for an equal division of such money or property, *inter alia*, the following matters, where relevant, shall be taken into consideration-

a. any contribution financial or otherwise which each party has made, is likely to make or will be required to make, including any contribution towards the care and welfare of the family and the matrimonial home;

b. any debts owed by either party that were contracted for their joint benefit; and

c. the needs of any minor children of the marriage.

Shabry Haleemdeen (Chairman)
Attorney at Law

SMM Yaseen
Attorney at Law

MAM Hakeem
Attorney at Law

Safana Gul Begum
Attorney at Law

Ermiza Tegal
Attorney at Law

Naamiq Nafath
Attorney at Law

ABM Ashraf

Sheik M Arkam Nooramith

Sheik Muiz Bukhary

On this 16th day of June, 2021.